

Title 12: CONSERVATION

Chapter 623: SHELLFISH, SCALLOPS, WORMS AND MISCELLANEOUS LICENSES

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Maine Revised Statutes
Title 12: CONSERVATION
Chapter 623: SHELLFISH, SCALLOPS,
WORMS AND MISCELLANEOUS LICENSES

Subchapter 1: SHELLFISH

Article 1: LICENSES

§6601. COMMERCIAL SHELLFISH LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current commercial shellfish license or other license issued under this Part authorizing the activities.

[2005, c. 434, §4 (AMD) .]

2. Licensed activities. The holder of a commercial shellfish license may fish for, take, possess or transport shellfish within the state limits or sell shellstock the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail certificate holder under section 6852, subsection 2-A. The holder may also sell shellstock the holder has taken from that license holder's home in the retail trade. This license does not authorize the holder to fish for or take shellfish in violation of a municipal ordinance adopted pursuant to section 6671.

[2011, c. 598, §26 (AMD) .]

2-A. Licensed activities; aquaculture. The holder of a commercial shellfish license who is also the holder or authorized representative of a holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C and personnel who are operating under the authority of such a holder of a commercial shellfish license may remove, possess, transport within the state limits or sell cultured shellfish the holder has removed from the leased area or the licensed gear to a wholesale seafood license holder certified under section 6856. Such a holder of a commercial shellfish license may also sell such shellstock from that license holder's home in the retail trade. A holder of a commercial shellfish license who is also the holder of a lease issued under section 6072 or 6072-A or that holder's authorized representative may sell such shellstock from the holder's lease site in the retail trade. The department shall establish by rule a means to identify personnel and authorized representatives operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2013, c. 509, §9 (AMD) .]

3. Eligibility. A commercial shellfish license may be issued only to an individual who is a resident.

[2005, c. 434, §4 (AMD) .]

4. Personal use exception. A person may take or possess no more than one peck of shellstock or 3 bushels of "hen" or "surf" clams for personal use in one day without a license, unless municipal ordinances further limit the taking of shellfish. This subsection does not apply to individuals whose ability to obtain a shellfish license has been suspended by the commissioner.

[2007, c. 54, §1 (AMD) .]

5. Fee. Except as provided in subsection 5-A, the fee for a commercial shellfish license is \$133.

[2009, c. 213, Pt. G, §13 (AMD) .]

5-A. Exception. The fee for a commercial shellfish license for applicants 70 years of age or older is \$67.

[2009, c. 213, Pt. G, §14 (AMD) .]

6. Definition. For the purposes of this subchapter, "shellfish" means shellstock clams, quahogs other than mahogany quahogs, and oyster shellstock.

[2005, c. 434, §4 (AMD) .]

7. Penalty.

[2001, c. 421, Pt. B, §38 (RP); 2001, c. 421, Pt. C, §1 (AFF) .]

8. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §39 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 163, (AMD). 1981, c. 297, §3 (AMD). 1981, c. 480, §§4,15,16 (AMD). 1983, c. 824, Pt. K, subpt. 3, (AMD). 1985, c. 243, (AMD). 1987, c. 328, §1 (AMD). 1987, c. 826, §1 (AMD). 1989, c. 348, §5 (AMD). 1991, c. 528, §T4 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T4 (AMD). 1993, c. 281, §1 (AMD). 2001, c. 421, §§B35-39 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW11 (AMD). 2005, c. 233, §§1,2 (AMD). 2005, c. 434, §4 (AMD). 2007, c. 54, §1 (AMD). 2007, c. 466, Pt. A, §§34, 35 (AMD). 2007, c. 522, §3 (AMD). 2009, c. 213, Pt. G, §§13, 14 (AMD). 2009, c. 217, §1 (AMD). 2011, c. 598, §26 (AMD). 2013, c. 509, §9 (AMD).

§6602. SURF CLAM BOAT LICENSE

1. License required. A person may not use a boat for dragging for the harvesting of surf clams unless that boat carries a current surf clam boat license issued by the commissioner.

[2007, c. 54, §2 (NEW) .]

2. Licensed activity. A surf clam boat license issued under this section may be used for harvesting surf clams. The holder of a surf clam boat license may also possess or transport surf clams within state limits or sell surf clams the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail certificate holder under section 6852, subsection 2-A. The license also authorizes the captain and crew members aboard the licensed boat when engaged in harvesting surf clams to undertake these activities.

[2011, c. 598, §27 (AMD) .]

3. Eligibility. A surf clam boat license may be issued only to an individual who is a resident of this State.

[2007, c. 54, §2 (NEW) .]

4. Exception. In any one day, a person may take or possess not more than 3 bushels of surf clams for personal use without a surf clam boat license.

[2007, c. 54, §2 (NEW) .]

5. Fee. The fee for a surf clam boat license is \$265.

[2009, c. 213, Pt. G, §15 (AMD) .]

6. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2007, c. 54, §2 (NEW) .]

SECTION HISTORY

2007, c. 54, §2 (NEW). 2009, c. 213, Pt. G, §15 (AMD). 2009, c. 217, §2 (AMD). 2011, c. 598, §27 (AMD).

Article 2: LIMITS ON FISHING

§6621. CLOSED AREAS

1. Taking from closed areas. A person may not:

A. Fish for or take shellfish from any area closed pursuant to section 6172; [2011, c. 527, §10 (AMD) .]

B. Fish for or take shellfish from any area closed pursuant to section 6172 when the person has one or more prior convictions for violating paragraph A; [2011, c. 527, §10 (AMD) .]

C. Possess, ship, transport or sell shellfish taken from any area closed pursuant to section 6172; or [2011, c. 527, §10 (AMD) .]

D. Possess, ship, transport or sell shellfish taken from any area closed pursuant to section 6172 when the person has one or more prior convictions for violating paragraph C. [2011, c. 527, §10 (AMD) .]

[2011, c. 527, §10 (AMD) .]

2. Washing or holding in closed areas. A person may not:

A. Wash, hold or keep shellfish in any area closed pursuant to section 6172; [2011, c. 527, §10 (AMD) .]

B. Wash, hold or keep shellfish in any area closed pursuant to section 6172 when the person has one or more convictions for violating paragraph A; [2011, c. 527, §10 (AMD) .]

C. Possess, ship, transport or sell shellfish washed, held or kept in any area closed pursuant to section 6172; or [2011, c. 527, §10 (AMD) .]

D. Possess, ship, transport or sell shellfish washed, held or kept in any area closed pursuant to section 6172 when the person has one or more convictions for violating paragraph C. [2011, c. 527, §10 (AMD) .]

[2011, c. 527, §10 (AMD) .]

3. Exception. This section does not apply to:

A. The taking of shellfish under the authority of section 6856; [1989, c. 257, §1 (AMD) .]

B. [2003, c. 520, §7 (RP).]

C. Municipal officials, with express written authorization from the commissioner, who are engaging in activities authorized under section 6671. Requests for exception must be submitted to the commissioner in writing stating the activities proposed and the name of the person designated by the municipal officials to supervise those activities. In addition, the municipality shall, at least 24 hours prior to engaging in the activity, notify the department of the time or times the activity authorized under this paragraph will be conducted; [1995, c. 323, §1 (AMD).]

D. The harvesting of shellfish from closed areas designated for purposes of relaying when harvesting is approved in writing by the commissioner consistent with regulations promulgated under section 6856; or [1995, c. 323, §1 (AMD).]

E. The harvesting of marine mollusks from closed areas for the use of bait or other uses not meant for human consumption, if the harvesting takes place according to rules adopted by the commissioner. The commissioner may adopt rules that permit the taking, possession, shipping, transportation and selling of marine mollusks for bait or other uses not meant for human consumption, if the rules do not jeopardize certification of the State's shellfish according to the National Shellfish Sanitation Program. [1995, c. 323, §1 (NEW).]

[2003, c. 520, §7 (AMD) .]

4. Penalty. A person who violates this article commits a Class D crime. The following minimum penalties apply:

A. For the first offense, a fine of not less than \$300; and [1997, c. 628, §1 (AMD).]

B. For subsequent offenses within 10 years from the date of conviction for the first violation, a fine of not less than \$500. [1997, c. 628, §1 (AMD).]

The court may not suspend a fine imposed under this subsection. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

[2003, c. 452, Pt. F, §17 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 462, §1 (AMD). 1983, c. 301, §8 (AMD). 1989, c. 257, §§1,2 (AMD). 1991, c. 168, §§1-3 (AMD). 1993, c. 281, §2 (AMD). 1995, c. 323, §1 (AMD). 1997, c. 628, §1 (AMD). 2003, c. 452, §§F16-17 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 520, §7 (AMD). 2011, c. 527, §10 (AMD).

§6622. QUAHOGS; MINIMUM SIZE

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 462, §2 (RP).

§6623. METHOD OF TAKING SOFT SHELL CLAMS

1. Hand implement only. It shall be unlawful to fish for or take soft shell clams, except by implements operated solely by hand, except as provided in this section.

[1977, c. 661, §5 (NEW) .]

1-A. Artificial breathing device prohibited. A person may not fish for or take soft shell clams while using an artificial breathing device that allows that person to breathe underwater. This subsection does not apply to the holder of a lease issued under section 6072, 6072-A or 6072-B when fishing for or taking soft shell clams cultivated on the leased area.

[1999, c. 112, §1 (NEW) .]

2. Special license for dredging. The commissioner may issue a special license, acting in accordance with the procedures set forth in section 6074, subsections 1 to 6, to operate a hydraulic or mechanical soft-shell clam dredge for educational or scientific purposes, for use on an aquaculture lease site or for municipal transplanting projects. The dredge shall not be used for commercial soft-shell clam harvesting except as authorized in this subsection. The dredge design and proposed operation shall be approved by the commissioner. The operation of the dredge shall not interfere with commercial digging and shall not be used for taking marine worms, lobsters or other crustaceans.

[1985, c. 255, (RPR) .]

3. Department excepted. This section shall not apply to equipment operated by the department for transplanting under a conservation program or conducting research on shellfish.

[1979, c. 622, §4 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1977, c. 713, §7 (AMD). 1979, c. 622, §§3,4 (AMD). 1985, c. 255, (AMD). 1999, c. 112, §1 (AMD).

§6624. QUAHOG TAX

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 462, §3 (RP).

§6625. IDENTIFICATION AND TAGGING OF SHELLFISH

1. Tagging required. The holder of a commercial shellfishing license issued under section 6601, 6731, 6732, 6745 or 6746 shall identify shellstock the license holder has taken by means of a harvester's tag. The tag must be consistent with the format required by the department under rules adopted to meet this requirement. Each container of shellstock must be tagged in accordance with department rules. The tag must accompany the harvested product while the product is in wholesale or retail commerce within the State.

[2005, c. 434, §5 (AMD) .]

2. Exception.

[2005, c. 434, §5 (RP) .]

3. Rules. The commissioner may adopt or amend rules that establish requirements for shellfish harvesters' tags.

[1993, c. 497, §3 (NEW) .]

SECTION HISTORY

1993, c. 497, §3 (NEW). 2005, c. 434, §5 (AMD).

§6626. SCALLOP CONSERVATION AREAS

Notwithstanding section 6174, subsection 3, a person who violates a rule adopted pursuant to section 6171 regarding a scallop conservation area commits a civil violation for which the penalties under this section apply. [2009, c. 72, §2 (NEW).]

1. First offense. For the first offense, a fine of \$1,000 is imposed and all scallops on board may be seized.

[2009, c. 72, §2 (NEW) .]

2. Second or subsequent offense. For a 2nd or subsequent offense, a mandatory minimum fine of \$1,000 is imposed, all scallops on board may be seized and the commissioner shall suspend the license authorizing the activity in which the person was engaged at the time of violation. The court may not suspend a fine imposed under this paragraph. The license suspension must be for one year from the date of adjudication.

[2009, c. 72, §2 (NEW) .]

SECTION HISTORY

2009, c. 72, §2 (NEW).

Article 3: SHELLFISH FUND

§6651. SHELLFISH FUND

1. Fees to be paid into fund. Fees from shellfish licenses, mussel hand-raking and boat licenses, shellfish transportation licenses and wholesale seafood licenses must be paid into the Shellfish Fund as follows:

- A. Seventy-four dollars and seventy-five cents from a commercial shellfish license; [2009, c. 213, Pt. G, §16 (NEW).]
- B. One hundred forty-nine dollars and fifty cents from a mussel boat license; [2009, c. 213, Pt. G, §16 (NEW).]
- C. Seventy-four dollars and seventy-five cents from a mussel hand-raking license; [2009, c. 213, Pt. G, §16 (NEW).]
- D. Two hundred ninety-nine dollars from a shellfish transportation license; [2009, c. 213, Pt. G, §16 (NEW).]
- E. Ninety-seven dollars and fifty cents from a shellfish transportation supplemental license; [2009, c. 213, Pt. G, §16 (NEW).]
- F. Two hundred fifty dollars and twenty-five cents from a wholesale seafood license; [2011, c. 598, §28 (AMD).]
- G. Forty-eight dollars and seventy-five cents from a wholesale seafood supplemental license; and [2011, c. 598, §28 (AMD).]
- H. Twenty-eight dollars from an enhanced retail certificate. [2011, c. 598, §29 (NEW).]

The Shellfish Fund may receive any other money, including any other gift, grant or other source of revenue.

[2011, c. 598, §§28, 29 (AMD) .]

2. Uses of fund. The commissioner may expend the money in the Shellfish Fund for management, enforcement, restoration, development and conservation of shellfish and mussels in the intertidal zone or coastal waters and for the costs associated with the Shellfish Advisory Council established by Title 5, section 12004-I, subsection 57-G.

[2007, c. 606, Pt. A, §3 (AMD) .]

3. Nonlapsing fund. The Shellfish Fund shall not lapse.

[1977, c. 661, §5 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1983, c. 838, §1 (AMD). 1987, c. 328, §2 (AMD). 1987, c. 826, §2 (AMD). 2003, c. 20, §WW12 (AMD). 2007, c. 606, Pt. A, §3 (AMD). 2007, c. 692, §3 (AMD). 2009, c. 213, Pt. G, §16 (AMD). 2011, c. 598, §§28, 29 (AMD).

Article 4: MUNICIPAL CONSERVATION PROGRAMS

§6671. MUNICIPAL SHELLFISH CONSERVATION PROGRAMS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Municipal funds. Any municipality may, by vote of its legislative body, raise and appropriate money for the implementation of a shellfish conservation program.

[1977, c. 661, §5 (NEW) .]

1-A. Municipal fines. In accordance with Title 30-A, section 3001, a fine collected pursuant to this section must be paid to the municipality in which the violation occurred.

[2009, c. 24, §1 (NEW) .]

2. Municipal program and ordinance. Any municipality may, by vote of its legislative body, adopt, amend or repeal a shellfish conservation ordinance as provided by this section. A municipality may establish a municipal shellfish management committee to administer a municipal program.

[2001, c. 188, §1 (AMD) .]

3. Shellfish conservation ordinance. The following provisions govern a shellfish conservation ordinance.

A. Within any area of the municipality, a shellfish conservation ordinance may:

- (1) Regulate or prohibit the possession of shellfish;
- (2) Fix the amount of shellfish that may be taken;
- (3) Provide for protection from shellfish predators;
- (4) Authorize the municipal officials to open and close flats under specified conditions; and
- (5) Specify areas of the intertidal zone in which the dragging of mussels may be limited to the degree necessary to support a municipal shellfish conservation program. [2007, c. 494, §1 (AMD) .]

B. An ordinance must limit the size of soft-shell clams in accordance with article 5. [2001, c. 188, §2 (NEW) .]

C. Except as provided in section 6621, subsection 3, paragraph C, a program or ordinance may not allow surveying, sampling or harvesting of shellfish in areas closed by regulation of the commissioner. [2001, c. 188, §2 (NEW).]

[2007, c. 494, §1 (AMD) .]

3-A. Shellfish conservation licensing. A shellfish conservation ordinance may fix the qualifications for a license, including municipal residency, subject to the following provisions.

A. [2001, c. 188, §3 (RP).]

A-1. The following exceptions apply.

(1) An individual is not required to hold a shellfish license issued by the commissioner under section 6601 in order to obtain a municipal commercial license.

(2) A municipality may issue licenses under this section regardless of whether or not the area has been closed by the commissioner.

(3) An individual taking shellfish from a closed area for depuration under a depuration certificate issued by the commissioner is not required to hold a municipal shellfish license. [2001, c. 188, §3 (NEW).]

B. A shellfish conservation ordinance may fix license fees as follows.

(1) If the ordinance sets a fee of \$200 or less for a resident license, the fee for a nonresident license may not exceed twice the resident fee.

(2) If the ordinance sets a fee of more than \$200 for a resident license, the fee for a nonresident license may not exceed 1 1/2 times the resident fee. [1997, c. 589, §2 (AFF); 1997, c. 589, §1 (RPR).]

C. Application methods and procedures for licenses may be determined by the shellfish conservation ordinance subject to the provisions of this section. Notice of the number and the procedure for application must be published in a trade or industry publication or in a newspaper or combination of newspapers with general circulation that the municipal officers consider effective in reaching individuals affected not less than 10 days prior to the period of issuance and must be posted in the municipal offices until the period of issuance concludes. The period of issuance for resident and nonresident licenses must be the same. Subsequent to the period of issuance, the municipality shall make any resident or nonresident licenses not granted during the period available to residents or nonresidents. [2001, c. 188, §3 (AMD).]

D. Except as otherwise provided in this section, a shellfish conservation ordinance may not discriminate between resident license holders and nonresident license holders. [2001, c. 188, §3 (AMD).]

E. A licensing authority shall provide and reserve a minimum number of commercial licenses for nonresidents. The number of nonresident commercial licenses may not be less than 10% of the number of commercial licenses provided for residents. When the number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license must be provided. When the number of resident commercial licenses is 5 or fewer, nonresident commercial licenses are not required. [2001, c. 188, §3 (AMD).]

F. When 2 or more municipalities have entered into a regional shellfish management agreement pursuant to subsection 7, the combined total number of commercial licenses for nonresidents provided by those municipalities must be a number not less than 10% of the combined total number of commercial licenses issued for residents. When the combined total number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license must be provided. When the combined total number of resident commercial licenses is 5 or fewer, nonresident commercial licenses are not required. [1995, c. 531, §2 (AMD).]

G. [2001, c. 188, §3 (RP).]

G-1. A licensing authority that issues recreational licenses to residents shall also make available to nonresidents recreational licenses. The number of nonresident recreational licenses may not be less than 10% of the number of recreational licenses issued to residents.

For the purposes of this paragraph, "recreational license" means a license that authorizes a person to take or possess shellfish only for personal use. [2001, c. 188, §3 (NEW) .]

For purposes of this subsection, "licensing authority" means a municipality or 2 or more municipalities that have entered into a regional shellfish management agreement pursuant to subsection 7.

[2001, c. 188, §3 (AMD) .]

4. Adoption requirements. Shellfish conservation ordinances may be adopted under this section by municipalities or unorganized townships.

A. Prior to adopting an ordinance, a municipality or unorganized township shall raise or appropriate money for a shellfish conservation program. [1999, c. 255, §3 (AMD); 1999, c. 255, §8 (AFF) .]

B. An ordinance proposed by a municipality or unorganized territory under this section must be approved in writing by the commissioner prior to its adoption, except that the commissioner may not withhold approval based on the amount of license fees specified in an ordinance. [1999, c. 255, §4 (AMD); 1999, c. 255, §8 (AFF) .]

C. Unorganized townships may adopt ordinances if:

- (1) At least 10 inhabitants have petitioned the county commissioners to adopt the ordinances;
- (2) The county commissioners of the townships have held a public hearing with at least 7 days' prior notice in one of the affected townships; and
- (3) A majority of the inhabitants eligible to vote voting at referendum approve the ordinances.

The county commissioners act as the municipal legislative body within unorganized townships that have elected to adopt ordinances under this section. [2001, c. 188, §4 (RPR) .]

[2001, c. 188, §4 (AMD) .]

4-A. State parks. The commissioner shall consult with the Commissioner of Agriculture, Conservation and Forestry in review of any municipal ordinance that affects intertidal areas located within state parks. The commissioner may not approve any ordinance that threatens any important resources or provides insufficient opportunity for recreational shellfish harvesting within state parks.

[1983, c. 418, (NEW); 2011, c. 657, Pt. W, §6 (REV) .]

4-B. Management program approval. The commissioner may adopt rules that set the criteria that municipal shellfish conservation programs and ordinances must meet in order to be approved by the commissioner.

[2001, c. 188, §5 (AMD) .]

5. Period of ordinance. Ordinances or amendments to an ordinance adopted under this section remain in effect until repealed by the municipality or rescinded by the commissioner. A certified copy of the ordinance or amendment to the ordinance must be filed with the commissioner within 20 days of its adoption. If a copy of the ordinance or an amendment to the ordinance is not filed within 20 days, the ordinance reverts to the ordinance previously in effect until the new ordinance or amendment is filed.

[2001, c. 667, Pt. B, §6 (RPR) .]

6. Municipality defined. For the purposes of this section, municipality includes:

A. Village corporations; and [1991, c. 390, §6 (AMD).]

B. The combined towns of Yarmouth and North Yarmouth. [1991, c. 390, §6 (AMD).]

C. [1991, c. 390, §7 (RP).]

[1991, c. 390, §§6, 7 (AMD) .]

7. Joint programs; reciprocal privileges. Municipalities may enter into regional shellfish management agreements with other municipalities and adopt regional shellfish management programs. The agreements, and the programs and ordinances adopted under them, are subject to the same requirements as municipal programs and ordinances. Resident privileges of one municipality in a regional shellfish management agreement may be extended to the residents of other municipalities in the agreement. A regional shellfish management committee comprised of at least one resident from each municipality named in the regional agreement may be established to administer a regional program.

[2001, c. 188, §7 (AMD) .]

8. Local enforcement. The following provisions apply to enforcement.

A. A municipality that enacts an ordinance under this section is responsible for enforcing it. [2001, c. 188, §8 (AMD) .]

B. Any municipal shellfish conservation warden appointed by a municipality to enforce the provisions of this article must be certified by the commissioner within one year of the warden's appointment. The commissioner shall establish a program to provide shellfish conservation training in principles of shellfish conservation, management, enforcement and protection and shall establish standards for certification of municipal conservation wardens upon their satisfactory completion of the training program. The commissioner may establish by rule procedures for certification, recertification and revocation of certification. The commissioner may revoke a certificate for failure of the warden to comply with performance standards. [2013, c. 301, §14 (AMD) .]

C. A certified municipal shellfish conservation warden shall enforce the shellfish ordinances of the municipality employing the warden and, if the warden is authorized by the municipality and meets the training requirements of Title 25, section 2804-I, the warden may arrest all violators. The warden may serve all process pertaining to the ordinance. The warden also has, within that warden's jurisdiction, the powers of a marine patrol officer provided in section 6025, subsection 4 and the authority to enforce section 6621. All of the powers conferred in this subsection are limited to the enforcement of a municipal shellfish conservation ordinance and section 6621.

At the commissioner's request, a certified municipal shellfish conservation warden may collect samples and otherwise assist the department in the detection of pollutants and contaminants. The commissioner is not required to conduct tests on samples not requested by the commissioner. [2005, c. 171, §1 (AMD) .]

[2013, c. 301, §14 (AMD) .]

9. Penalty.

[1993, c. 281, §3 (RP) .]

10. Criminal penalty. A person who violates a provision of a municipal ordinance adopted under this section commits a Class D crime punishable by the following fines:

A. For harvesting shellfish from an area closed for conservation purposes:

(1) For the first offense by a commercial license holder, a fine of not less than \$300;

(2) For subsequent offenses by a commercial license holder, a fine of not less than \$500 and not more than \$1,500;

(3) For the first offense by a recreational license holder, a fine of not less than \$100; and

(4) For subsequent offenses by a recreational license holder, a fine of not less than \$100 and not more than \$500; or [2005, c. 171, §2 (AMD) .]

B. For violating any other provision of a municipal ordinance adopted under this section, a fine of not less than \$100 and not more than \$1,500. [2005, c. 171, §2 (AMD) .]

The court may not suspend a fine imposed under this subsection or impose a penalty other than the monetary payment of a fine as provided in this subsection. For purposes of this subsection, "recreational license" means a license that authorizes a person to take or possess shellfish only for personal use. A fine for a violation of article 5 must be as provided by section 6681.

[2005, c. 171, §2 (AMD) .]

10-A. Civil penalty. A person who harvests shellfish without a municipal shellfish license or in violation of a license restriction commits a civil violation for which the following fines may be adjudged:

The court may not suspend a fine imposed under this subsection or impose a penalty other than the monetary payment of a fine as provided in this subsection. For the purposes of this subsection, "recreational license" means a license that authorizes a person to take or possess shellfish only for personal use.

A. For harvesting shellfish without a municipal shellfish license:

(1) For commercial purposes, a fine of not less than \$300 and not more than \$1,000. Possession of more than one peck of clams without a license is prima facie evidence of a violation of this subparagraph; and

(2) For personal use, a fine of not less than \$100 and not more than \$500; and [2013, c. 468, §31 (AMD) .]

B. For harvesting shellfish in violation of a license restriction:

(1) By a commercial license holder, a fine of not less than \$300 and not more than \$1,000; and

(2) By a recreational license holder, a fine of not less than \$100 and not more than \$500. [2013, c. 468, §31 (AMD) .]

[2013, c. 468, §31 (AMD) .]

10-B. Molesting municipal shellfish gear placed in protected areas. A municipality may, as part of a municipal shellfish conservation program, place protective netting, fencing, traps or other gear in the intertidal zone to provide protection from shellfish predators. Any netting, fencing, traps or other gear placed for this purpose must be clearly marked with signs or tags that identify the municipality that placed the gear and indicate the purpose of the gear.

A. A person may not tamper with, molest, disturb, alter, destroy or in any manner handle gear placed by a municipality in accordance with this subsection. [2013, c. 517, §1 (NEW) .]

B. A person who violates paragraph A commits a civil violation for which a fine of not less than \$300 and not more than \$1,000 may be adjudged. [2013, c. 517, §1 (NEW) .]

[2013, c. 517, §1 (NEW) .]

10-C. (TEXT EFFECTIVE UNTIL 2/28/15) (TEXT REPEALED 2/28/15) Prohibition. A person may not fish for or take any marine organism from within a predator control project area that has been approved by the commissioner as part of a municipal predator control project, except that the municipality may remove green crabs from within the predator control project area. A person who violates this subsection commits a civil violation for which a fine of not less than \$300 and not more than \$1,000 may be adjudged.

This subsection is repealed February 28, 2015.

[2013, c. 517, §1 (NEW) .]

11. Certificate as evidence. A certificate of the clerk of the municipality or any other custodian of the records of a municipal shellfish conservation ordinance adopted under this section stating what the records of the municipality show is admissible as evidence in all courts as proof of the municipal records. A certificate stating that the records do not show that a person held a license is prima facie evidence that the person did not hold the license on the date specified in the certificate. A certificate stating that the records show that a shellfish conservation ordinance or portions of an ordinance were in effect on a particular date is prima facie evidence that the ordinance was in effect on the date specified in the certificate. The certified copy is admissible in evidence on the testimony of a municipal shellfish conservation warden that the warden received the certificate after requesting it from the municipality. Further foundation is not necessary for the admission of the certificate.

[1999, c. 255, §7 (NEW); 1999, c. 255, §8 (AFF) .]

12. Intertidal mussel harvesting. With the advice of the municipality, the commissioner may issue a permit to an individual licensed pursuant to section 6746 that authorizes the permit holder to fish for and take mussels from an area designated by the municipality pursuant to subsection 3. The commissioner shall limit the number of permits issued for a designated area to that number the commissioner determines is necessary to achieve the goals of the municipality's shellfish conservation program. The permit may specify limits on the amount of mussels taken, when the mussels may be taken and gear usage and any other conditions necessary for consistency with the shellfish conservation program.

[2007, c. 494, §2 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 608, §§1-3 (AMD). 1983, c. 283, (AMD). 1983, c. 418, (AMD). 1983, c. 689, (AMD). 1983, c. 838, §§2-5 (AMD). 1985, c. 48, §1 (AMD). 1985, c. 52, §2 (AMD). 1985, c. 259, (AMD). 1985, c. 737, §§A28,29 (AMD). 1987, c. 402, §A96 (AMD). 1987, c. 816, §KK13 (AMD). 1987, c. 867, (AMD). 1989, c. 257, §§3-5 (AMD). 1991, c. 29, (AMD). 1991, c. 242, §3 (AMD). 1991, c. 390, §§5-7 (AMD). 1991, c. 784, §6 (AMD). 1991, c. 831, §1 (AMD). 1993, c. 281, §§3,4 (AMD). 1993, c. 456, §1 (AMD). 1995, c. 75, §1 (AMD). 1995, c. 531, §§1-3 (AMD). 1997, c. 247, §§1,2 (AMD). 1997, c. 589, §1 (AMD). 1997, c. 589, §2 (AFF). 1999, c. 255, §§1-7 (AMD). 1999, c. 255, §8 (AFF). 1999, c. 682, §1 (AMD). 2001, c. 101, §1 (AMD). 2001, c. 188, §§1-8 (AMD). 2001, c. 667, §B6 (AMD). 2003, c. 284, §§1,2 (AMD). 2005, c. 171, §§1-3 (AMD). 2007, c. 494, §§1, 2 (AMD). 2009, c. 24, §1 (AMD). 2011, c. 657, Pt. W, §6 (REV). 2013, c. 301, §14 (AMD). 2013, c. 468, §31 (AMD). 2013, c. 517, §1 (AMD).

§6672. GREEN CRAB FENCING PROGRAM

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 2011, c. 598, §30 (RP).

§6673. MUNICIPAL SHELLFISH AQUACULTURE PERMIT

A municipality that has established a shellfish conservation program as provided under section 6671 may, consistent with the rights of property owners, issue a municipal shellfish aquaculture permit to a person for the exclusive use of shellfish in a designated area in the intertidal zone to the extreme low water mark within the municipality for the purpose of shellfish aquaculture. Municipal authority to issue a municipal shellfish aquaculture permit under this section does not limit in any way the authority of the commissioner to issue leases in the intertidal zone in accordance with sections 6072, 6072-A and 6072-B. [2003, c. 660, Pt. A, §21 (AMD).]

1. Municipal procedure.

[2003, c. 660, Pt. A, §21 (RP).]

1-A. Application. A municipality shall review an application for a municipal shellfish aquaculture permit on a form supplied by the municipality. The municipality may charge an application fee that reflects the costs of processing an application. The municipality shall publish a summary of the application in a newspaper of general circulation in the area that would be affected by the permit. A person may provide comments to the municipality on the proposed permit within 30 days of publication of the summary.

Prior to issuing a municipal shellfish aquaculture permit, a municipality shall hold a public hearing if requested in writing by 5 or more persons. The public hearing must be held in accordance with procedures established in ordinances adopted in subsection 3.

[2009, c. 229, §15 (AMD).]

2. Department procedure for review and approval.

[2003, c. 660, Pt. A, §21 (RP).]

2-A. Decision. In evaluating a proposed municipal shellfish aquaculture permit, a municipal officer shall take into consideration the number and density of permits and leases in the area and may issue the permit if the municipal officer finds the proposed project meets the following criteria.

A. The permit conforms to the municipality's shellfish conservation program. [2003, c. 660, Pt. A, §21 (NEW).]

B. The permit will not cause the total area under all municipal shellfish aquaculture permits in the municipality to exceed 1/4 of the entire municipal intertidal zone that is open to the taking of shellfish. [2009, c. 229, §16 (AMD).]

C. Issuing the permit is in the best interests of the municipality. [2003, c. 660, Pt. A, §21 (NEW).]

D. The permit will not unreasonably interfere with ingress and egress of riparian owners. [2003, c. 660, Pt. A, §21 (NEW).]

E. The permit will not unreasonably interfere with navigation. [2003, c. 660, Pt. A, §21 (NEW).]

F. The permit will not unreasonably interfere with fishing or other uses of the area. For purposes of this paragraph, "fishing" includes public access to a redeemable shellfish resource, as defined by the department, for the purpose of harvesting, provided that the resource is commercially significant and is subject to a pollution abatement plan that predates the permit application, that includes verifiable activities in the process of implementation and that is reasonably expected to result in the opening of the area to the taking of shellfish within 3 years. [2003, c. 660, Pt. A, §21 (NEW).]

G. The permit will not unreasonably interfere with significant wildlife habitat and marine habitat or with the ability of the site affected by the permit and surrounding marine and upland areas to support existing ecologically significant flora and fauna. [2003, c. 660, Pt. A, §21 (NEW).]

H. The applicant has demonstrated that there is an available source of organisms to be cultured for the site affected by the permit. [2003, c. 660, Pt. A, §21 (NEW).]

I. The permit does not unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park or docking facility owned by the Federal Government, the State Government or a municipal government or conserved lands. For purposes of this paragraph, "conserved lands" means land in which fee ownership has been acquired by the municipal government, State Government or Federal Government in order to protect the important ecological, recreational, scenic, cultural or historic attributes of that property. [2003, c. 660, Pt. A, §21 (NEW).]

A municipality shall review the Department of Agriculture, Conservation and Forestry's list of conserved lands compiled pursuant to section 6072, subsection 7-A, paragraph F prior to issuing a municipal shellfish aquaculture permit.

A municipality shall put its findings on each of the criteria listed in this subsection in writing and make those findings available to the public.

[2011, c. 655, Pt. II, §5 (AMD); 2011, c. 655, Pt. II, §11 (AFF); 2011, c. 657, Pt. W, §5 (REV) .]

3. Municipal shellfish aquaculture permit. Prior to issuing a municipal shellfish aquaculture permit pursuant to this section, a municipality shall adopt ordinances that establish procedures for consideration of permit applications under the decision criteria in subsection 2-A, including but not limited to provisions for a public hearing process. Additionally, the municipality shall adopt ordinances designed to prevent speculative holding of permits. An ordinance proposed by a municipality under this subsection must be approved in writing by the commissioner prior to its adoption.

When approved, a municipal shellfish aquaculture permit must be forwarded to the commissioner. The municipality may charge a municipal shellfish aquaculture permit fee not to exceed \$100 per acre annually. The municipality may establish conditions and limits on the permit. A municipal shellfish aquaculture permit may be granted for a period of up to 10 years and is renewable upon application by the permittee. The municipality shall monitor and enforce the terms and conditions of a permit on an annual basis and submit an annual report on permit activities to the department. Such information is considered landings data.

[2009, c. 229, §17 (AMD) .]

4. Renewals. A municipality shall give public notice for a municipal shellfish aquaculture permit renewal as required under subsection 1-A, and a hearing must be held if it is requested in writing by 5 or more persons. If a public hearing is required, it must be held in accordance with procedures established in an ordinance adopted under subsection 3. A renewal may be granted as long as the permit continues to meet the criteria of subsection 2-A. The findings of the municipality regarding the criteria in subsection 2-A must be in writing and made available to the public.

[2003, c. 660, Pt. A, §21 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1999, c. 267, §3 (AMD). 2003, c. 660, §A21 (AMD). 2009, c. 229, §§15-17 (AMD). 2011, c. 655, Pt. II, §5 (AMD). 2011, c. 655, Pt. II, §11 (AFF). 2011, c. 657, Pt. W, §5 (REV).

§6674. INTERFERENCE WITH MUNICIPAL SHELLFISH AQUACULTURE PERMIT

A person may not knowingly interfere with the ability of a person who holds a municipal shellfish aquaculture permit from carrying out the privileges granted to the permittee under that permit. Except for the permittee, a person may not take shellfish in an area that is included in a municipal shellfish aquaculture permit. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2009, c. 229, §18 (AMD).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 2003, c. 660, §A22 (AMD). 2009, c. 229, §18 (AMD).

§6675. SHELLFISH RESEEDING PROGRAM

The department shall carry out a program of shellfish reseedling. The program shall include such activities as the transplanting of soft shell clams from areas of large concentrations to potentially productive areas, and relaying shellfish otherwise inhibited from attaining optimum market size. The program may be carried out in cooperation with municipal and joint shellfish conservation programs. The department may close areas under section 6171 to protect reseeded flats, including areas subject to municipal shellfish conservation ordinances. [1983, c. 559, §2 (NEW).]

SECTION HISTORY

1983, c. 559, §2 (NEW).

§6676. SUMMARY OF MUNICIPAL ORDINANCES

The department shall prepare a summary description of all municipal shellfish ordinances, which must include, but not be limited to, a listing for each municipality of the license application period, fee structure and number of licenses available to residents and nonresidents. The department shall update the summary and make it available to the public in a manner that the commissioner considers to be effective in reaching the persons affected. [2005, c. 434, §6 (AMD).]

SECTION HISTORY

1985, c. 48, §2 (NEW). 2005, c. 434, §6 (AMD).

Article 5: SOFT-SHELL CLAM MANAGEMENT

§6681. SOFT-SHELL CLAM MANAGEMENT

1. Purpose. The Legislature finds that the conservation and wise use of the State's shellfish resource may be enhanced by a 2-inch minimum size limit on possession of soft-shell clam shell stock in combination with other management programs.

The Legislature further finds that management programs should be designed to meet local circumstances as appropriate, but also finds that a minimum size limit to be beneficial must be a uniform standard statewide.

The Legislature intends by this Article to enhance the value of the State's shellfish resource by the institution of uniform standards which can be implemented and enforced statewide.

[1983, c. 838, §6 (NEW) .]

2. Definition. For the purposes of this subchapter, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft-shelled clam shell stock.

[1983, c. 838, §6 (NEW) .]

3. Minimum size. A person may not possess soft-shelled clam shell stock whose shells are less than 2 inches in the largest diameter:

A. If the soft-shelled clams comprise more than 10% but less than 20% of a bulk pile as determined under subsection 4; [2003, c. 452, Pt. F, §18 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. If the soft-shelled clams comprise 20% or more of a bulk pile as determined under subsection 4; or [2003, c. 452, Pt. F, §18 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. If the soft-shelled clams comprise 20% or more of a bulk pile as determined under subsection 4 and the person has one or more prior convictions for violating paragraph B. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [2003, c. 452, Pt. F, §18 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §18 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

4. Tolerance. Any person may possess soft-shelled clams that are less than 2 inches if they comprise less than 10% of any bulk pile. The tolerance is determined by numerical count of not less than one peck nor more than 4 pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

[2003, c. 452, Pt. F, §18 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

5. Enforcement. State, county and municipal wardens and enforcement officers shall enforce this subchapter.

[1983, c. 838, §6 (NEW) .]

6. Penalty.

[1993, c. 281, §5 (RP) .]

6-A. Penalty. A person who violates this article commits a Class D crime. The following minimum penalties apply:

A. For possession of a bulk pile of shellfish of which 20% or more of the shellfish are smaller than the minimum size established in subsection 3:

(1) For the first offense, a fine of not less than \$300; and

(2) For subsequent offenses within 10 years from the date of conviction for the first violation, a fine of not less than \$500.

The court may not suspend a fine imposed under this paragraph; and [1997, c. 628, §2 (AMD) .]

B. For possession of a bulk pile of shellfish of which more than 10% but less than 20% of the shellfish are smaller than the minimum size established in subsection 3, a fine not less than \$100 and not more than \$1,000. [1993, c. 281, §6 (NEW) .]

[1997, c. 628, §2 (AMD) .]

7. Sunset. This section shall be reviewed by the joint standing committee of the Legislature having jurisdiction over marine resources in the Second Regular Session of the 113th Legislature. That committee shall report its findings no later than April 1, 1988.

[1987, c. 580, §1 (AMD) .]

SECTION HISTORY

1983, c. 838, §6 (NEW). 1985, c. 9, (AMD). 1985, c. 737, §A30 (AMD). 1987, c. 580, §1 (AMD). 1993, c. 281, §§5,6 (AMD). 1997, c. 628, §2 (AMD). 2003, c. 452, §F18 (AMD). 2003, c. 452, §X2 (AFF).

Article 6: WATER QUALITY HEADING: PL 2001, C. 587, §1 (NEW)

§6691. WATER QUALITY SAMPLERS

A commercial shellfish license holder who complies with the shellfish sanitation program's quality assurance and quality control training and certification requirements as administered by the department may serve as a volunteer water quality sampler for the department. [2001, c. 587, §1 (NEW).]

SECTION HISTORY

2001, c. 587, §1 (NEW).

Subchapter 2: SCALLOPS

Article 1: LICENSES

§6701. SCALLOP LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current hand fishing scallop license or other license issued under this Part authorizing the activities. A person acting as tender to an individual possessing a current individual hand fishing scallop license issued under subsection 5, paragraph A shall possess a scallop or sea urchin tender license issued under section 6535.

[2009, c. 561, §22 (RPR) .]

2. Licensed activity. The holder of a hand fishing scallop license may take scallops by hand or possess, ship, transport or sell shucked scallops the holder has taken. An unlicensed person acting as a tender for an individual licensed under subsection 5, paragraph B, in accordance with subsection 4, may possess, ship, transport and sell shucked scallops the hand fishing scallop license holder has taken. A person may not act as a tender under subsection 5, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

[2009, c. 561, §22 (RPR) .]

3. Eligibility. A hand fishing scallop license may be issued only to an individual who is a resident.

[2009, c. 561, §22 (RPR) .]

4. Exception. A person may act as a tender to an individual possessing a current hand fishing scallop license with tender issued under subsection 5, paragraph B without being licensed under this Part if that person has met the tender safety requirements adopted by rule pursuant to section 6533.

[2009, c. 561, §22 (RPR) .]

5. Fees. Fees for hand fishing scallop licenses are:

A. For an individual hand fishing scallop license, \$143; and [2009, c. 561, §22 (RPR).]

B. For a hand fishing scallop license with tender, \$193. [2009, c. 561, §22 (RPR).]

[2009, c. 561, §22 (RPR) .]

6. Violation. A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2009, c. 561, §22 (RPR).]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2009, c. 561, §22 (RPR).]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2009, c. 561, §22 (RPR).]

[2009, c. 561, §22 (RPR) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 127, §86 (AMD). 1981, c. 480, §§5,15,16 (AMD). 1983, c. 663, §1 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 165, (AMD). 1985, c. 243, (AMD). 1985, c. 379, §3 (AMD). 1985, c. 662, §1 (AMD). 1991, c. 528, §T5 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T5 (AMD). 2001, c. 421, §B40 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW13 (AMD). 2003, c. 248, §7 (AMD). 2007, c. 557, §1 (AMD). 2007, c. 607, Pt. B, §1 (AMD). 2007, c. 695, Pt. I, §3 (AMD). 2009, c. 213, Pt. G, §17 (AMD). 2009, c. 396, §§5-7 (AMD). 2009, c. 561, §22 (RPR).

§6702. SCALLOP DRAGGING LICENSE

1. License required. A person may not use a boat for dragging for scallops in the State's territorial waters unless that person holds a scallop dragging license issued by the commissioner and that boat is identified on the license.

[2011, c. 598, §31 (AMD) .]

2. Licensed activity. A person licensed under this section may use the boat identified on the license to drag for scallops in the State's territorial waters and possess, ship, sell or transport shucked scallops taken under the license. The license also authorizes the captain and crew members aboard the boat identified on the license when engaged in dragging for scallops to undertake these activities, except that the captain and crew members may not fish for or take scallops if the license holder is not aboard that boat except as provided in subsection 2-A.

[2011, c. 598, §31 (AMD) .]

2-A. Exemptions. Notwithstanding subsection 2, the commissioner may authorize a person to fish for or take scallops from a boat when the person holding a scallop dragging license that contains the name of that boat is not on board if:

A. The holder of the scallop dragging license documents to the commissioner that an illness or disability temporarily prevents the license holder from fishing for or taking scallops from that boat and requests in writing to the commissioner that the commissioner authorize another person to use that boat to fish for or take scallops; or [2007, c. 607, Pt. A, §2 (NEW) .]

B. The boat named on the license of a license holder is temporarily inoperable because of an accident or a mechanical failure and the license holder requests in writing to the commissioner that the commissioner authorize the license holder to use another boat to fish for or take scallops. [2007, c. 607, Pt. A, §2 (NEW).]

[2007, c. 607, Pt. A, §2 (NEW) .]

3. Eligibility. A scallop dragging license may be issued only to an individual who is a resident.

[2007, c. 607, Pt. A, §2 (AMD) .]

4. Personal use exception. In any one day, a person licensed pursuant to section 6703 may take or possess not more than 1 1/2 bushels of shell scallops or one gallon of shucked scallops for personal use without a scallop dragging license under this section.

[2013, c. 492, §7 (AMD) .]

5. Fee. The fee for a scallop dragging license is \$143.

[2009, c. 213, Pt. G, §18 (AMD) .]

6. Violation. A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2009, c. 415, Pt. A, §7 (RPR).]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2009, c. 415, Pt. A, §7 (RPR).]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2009, c. 415, Pt. A, §7 (RPR).]

[2009, c. 415, Pt. A, §7 (RPR) .]

SECTION HISTORY

1983, c. 663, §2 (NEW). 1985, c. 662, §§2,3 (AMD). 1991, c. 528, §T6 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T6 (AMD). 1997, c. 572, §2 (AMD). 2001, c. 421, §B41 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW14 (AMD). 2003, c. 248, §8 (AMD). 2007, c. 557, §2 (AMD). 2007, c. 607, Pt. A, §2 (AMD). 2007, c. 607, Pt. B, §2 (AMD). 2007, c. 695, Pt. I, §2 (AMD). 2009, c. 213, Pt. G, §18 (AMD). 2009, c. 415, Pt. A, §7 (AMD). 2011, c. 598, §31 (AMD). 2013, c. 301, §15 (AMD). 2013, c. 492, §7 (AMD).

§6703. NONCOMMERCIAL SCALLOP LICENSE; FEE

1. License required. A person may not engage in the activities authorized by this license under this section without a current noncommercial scallop license.

[1999, c. 771, Pt. B, §8 (AMD); 1999, c. 771, Pt. D, §§1, 2 (AFF) .]

2. Licensed activity. The holder of a noncommercial scallop license may take scallops by hand or by use of a drag and may possess, ship or transport scallops he has taken.

[1985, c. 662, §4 (NEW) .]

3. License limitation; quantity. In any one day, the holder of a noncommercial scallop license may not take or possess more than 1 1/2 bushels of shell scallops or one gallon of shucked scallops.

[2013, c. 492, §8 (AMD) .]

3-A. License limitation; personal use. The holder of a noncommercial scallop license may take or possess scallops for personal use only and may not sell scallops the holder has taken.

[2003, c. 452, Pt. F, §20 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

4. Fee. The fee for a noncommercial scallop license is \$18.

[2009, c. 213, Pt. G, §19 (AMD) .]

5. Penalty. A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 607, Pt. B, §3 (NEW).]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 607, Pt. B, §3 (NEW).]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2007, c. 607, Pt. B, §3 (NEW).]

[2007, c. 607, Pt. B, §3 (AMD) .]

SECTION HISTORY

1985, c. 662, §4 (NEW). 1991, c. 528, §T7 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T7 (AMD). 1999, c. 771, §§B8,9 (AMD). 1999, c. 771, §§D1,2 (AFF). 2003, c. 20, §WW15 (AMD). 2003, c. 452, §§F19,20 (AMD). 2003, c. 452, §X2 (AFF). 2007, c. 557, §3 (AMD). 2007, c. 607, Pt. A, §3 (AMD). 2007, c. 607, Pt. B, §3 (AMD). 2007, c. 695, Pt. I, §3 (AMD). 2009, c. 213, Pt. G, §19 (AMD). 2013, c. 301, §16 (AMD). 2013, c. 492, §8 (AMD).

§6704. HANDFISHING SEA URCHIN LICENSE

(REPEALED)

SECTION HISTORY

1991, c. 528, §T8 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T8 (NEW). 1993, c. 416, §1 (RP).

§6705. SEA URCHIN BOAT LICENSE

(REPEALED)

SECTION HISTORY

1991, c. 528, §T8 (NEW). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T8 (NEW). 1993, c. 416, §1 (RP).

§6706. LIMITED ENTRY

1. License eligibility in 2009. The commissioner may not issue a 2009 hand fishing scallop license or a 2009 scallop dragging license to a person unless that person possessed a scallop license issued pursuant to section 6701 or a scallop boat license issued pursuant to section 6702 in either:

A. The 2005, 2006 or 2007 license year; or [2011, c. 266, Pt. A, §19 (AMD) .]

B. The 2008 license year prior to May 1, 2008. [2007, c. 607, Pt. A, §4 (NEW) .]

[2011, c. 266, Pt. A, §19 (AMD) .]

2. License eligibility in subsequent years. Except as provided in subsection 3, the commissioner may not issue a hand fishing scallop license or a scallop dragging license to any person in any year subsequent to 2009 unless that person possessed that license in the previous calendar year or is eligible to obtain a license in accordance with the limited entry system established under subsection 3.

[2011, c. 237, §1 (AMD) .]

3. Scallop license limited entry system. Notwithstanding subsection 2, the commissioner shall establish by rule a limited entry system under which a person who did not hold a hand fishing scallop license or a scallop dragging license in the previous calendar year may become eligible to obtain that license. The rules for a limited entry system must include provisions for the method and administration of the program. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 237, §2 (AMD) .]

4. Repeal.

[2011, c. 237, §3 (RP) .]

SECTION HISTORY

2007, c. 607, Pt. A, §4 (NEW). 2011, c. 237, §§1-3 (AMD). 2011, c. 266, Pt. A, §19 (AMD).

Article 2: LIMITS ON FISHING

§6721. MINIMUM SIZE

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1985, c. 208, (RP).

§6721-A. SHELL SIZE MINIMUM

(REALLOCATED FROM TITLE 12, SECTION 6728-A)

1. Minimum shell size. Except as provided in subsection 4, this subsection governs the shell size limits of scallops.

A. From December 1, 2003 to November 30, 2004, a person may not possess, ship, transport, buy or sell scallops that are less than 3 3/4 inches in the longest diameter. [2003, c. 520, §8 (RAL) .]

B. On December 1, 2004 and thereafter, a person may not possess, ship, transport, buy or sell scallops that are less than 4 inches in the longest diameter. [2003, c. 520, §8 (RAL) .]

[2003, c. 520, §8 (RAL) .]

2. Prima facie evidence. It is prima facie evidence of possession of illegal scallops if a vessel contains scallops less than the minimum shell size set by this section or the minimum shell size set by rules adopted pursuant to this section while a person licensed under this subchapter or crew member of a person licensed under this subchapter is shucking scallops.

[2009, c. 561, §23 (AMD) .]

3. Release of undersize scallops. Those scallops that are less than the minimum shell size established by this section or by rules adopted pursuant to this section must be immediately liberated into the waters from which they were taken.

[2003, c. 520, §8 (RAL) .]

4. Rules. After December 1, 2004, the commissioner may adopt rules to increase the minimum shell size set by this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 520, §8 (RAL) .]

5. Violation. Notwithstanding section 6174, subsection 3, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 695, Pt. I, §4 (RPR) .]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 695, Pt. I, §4 (RPR) .]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2007, c. 695, Pt. I, §4 (RPR) .]

[2007, c. 695, Pt. I, §4 (RPR) .]

SECTION HISTORY

2003, c. 520, §8 (RAL). 2007, c. 557, §4 (AMD). 2007, c. 607, Pt. A, §§5, 6 (AMD). 2007, c. 607, Pt. B, §4 (AMD). 2007, c. 695, Pt. I, §§4, 5 (AMD). 2009, c. 561, §23 (AMD).

§6722. SCALLOP SEASON

1. Scallop fishing season. Unless modified by rules adopted under section 6171-A, a person may not fish for or take scallops in the territorial waters from April 16th to November 30th, both days inclusive.

[2007, c. 695, Pt. I, §6 (RPR) .]

2. Violations. Notwithstanding section 6174, subsection 3, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 695, Pt. I, §6 (RPR) .]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 695, Pt. I, §6 (RPR).]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B. [2007, c. 695, Pt. I, §6 (RPR).]

[2007, c. 695, Pt. I, §6 (RPR) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 96, (RPR). 1983, c. 685, (AMD). 1999, c. 94, §1 (AMD). 2001, c. 272, §14 (AMD). 2007, c. 557, §5 (RPR). 2007, c. 607, Pt. B, §5 (RPR). 2007, c. 695, Pt. I, §6 (RPR).

§6723. DRAG LIMITS IN BLUE HILL BAY

1. Drag limit. Except as provided by rule pursuant to section 6727-A, subsection 2, a person may not fish for or take scallops with any one combination of scallop drags in excess of 8 feet, 6 inches in width, measured from the extreme outside edge of the mouth of the drag or drags, in Blue Hill Bay above or north of a line drawn from Bass Harbor Head in the Town of Tremont westerly to Pond Island and thence to Naskeag Point in the Town of Brooklin.

[2007, c. 607, Pt. A, §7 (NEW) .]

2. Violation. A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 607, Pt. A, §7 (NEW).]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 607, Pt. A, §7 (NEW).]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2007, c. 607, Pt. A, §7 (NEW).]

[2007, c. 607, Pt. A, §7 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 91, (AMD). 2007, c. 607, Pt. A, §7 (RPR).

§6724. OTTER TRAWL IN PENOBSCOT RIVER

1. Prohibition. A person may not fish for or take scallops by use of an otter trawl inside and upriver of a line drawn from the lighthouse on Dice Head, Castine to Turtle Head on Islesboro and thence to the town wharf at Bayside, Northport.

[2007, c. 607, Pt. B, §6 (NEW) .]

2. Violations. A person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 607, Pt. B, §6 (NEW).]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 607, Pt. B, §6 (NEW).]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2007, c. 607, Pt. B, §6 (NEW).]

[2007, c. 607, Pt. B, §6 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 2007, c. 607, Pt. B, §6 (RPR).

§6725. POSSESSION OF ILLEGAL SCALLOPS

1. Prohibition. A person may not possess, ship, transport, buy or sell scallops taken in violation of this subchapter.

[2007, c. 695, Pt. I, §7 (RPR) .]

2. Violations. Notwithstanding section 6174, subsection 3, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 695, Pt. I, §7 (RPR).]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 695, Pt. I, §7 (RPR).]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B. [2007, c. 695, Pt. I, §7 (RPR).]

[2007, c. 695, Pt. I, §7 (RPR) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 2007, c. 557, §6 (RPR). 2007, c. 607, Pt. B, §7 (RPR). 2007, c. 695, Pt. I, §7 (RPR).

§6726. RING SIZE

1. Minimum size. The minimum ring size is 3 1/2 inches except as provided by rule. The commissioner shall establish by rule a minimum ring size that may not be smaller than 4 inches in diameter. A person may not use a drag to fish for or take scallops in the territorial waters with rings that measure less than the ring size provided pursuant to this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

A. [1999, c. 94, §2 (RP).]

B. [2007, c. 607, Pt. A, §8 (RP).]

C. [2007, c. 607, Pt. A, §8 (RP).]

[2007, c. 607, Pt. A, §8 (AMD) .]

2. Measurement of rings. Ring size is determined by measuring the shortest straight line passing through the center of the ring from one inside edge to the opposite inside edge of the ring. The measurement may not include links or normal welds from ring manufacturing. The rings measured must be at least 5 rings away from the mouth and at least 2 rings away from other rigid portions of the drag.

[1997, c. 281, §1 (NEW) .]

3. Configuration of drag. The commissioner shall adopt rules that limit the mesh size of net material on the top of a scallop drag, prohibit chafing gear or cookies on the top of a scallop drag, establish ring link restrictions for a scallop drag and prohibit drag or net obstructions. Rules initially adopted pursuant to this subsection must be identical to federal regulations in the Atlantic sea scallop fishery in effect on March 25, 1997 that limit the mesh size of net material on the top of a scallop drag, prohibit chafing gear or cookies on the top of a scallop drag, establish ring link restrictions for a scallop drag and prohibit drag or net obstructions. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

[1997, c. 281, §1 (NEW) .]

4. Violations. Notwithstanding section 6174, subsection 3, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 557, §7 (NEW) .]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 557, §7 (NEW) .]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B. [2007, c. 557, §7 (NEW) .]

[2007, c. 695, Pt. I, §8 (AMD) .]

SECTION HISTORY

1997, c. 281, §1 (NEW). 1999, c. 94, §2 (AMD). 2001, c. 272, §15 (AMD). 2007, c. 557, §7 (AMD). 2007, c. 607, Pt. A, §8 (AMD). 2007, c. 695, Pt. I, §8 (AMD).

§6727. DRAG WIDTH

(REPEALED)

SECTION HISTORY

1997, c. 281, §1 (NEW). 1999, c. 94, §§3,4 (AMD). 2001, c. 272, §16 (AMD). 2007, c. 607, Pt. A, §9 (RP).

§6728. LIMITS IN COBSCOOK BAY

(CONFLICT)

1. Daily limit; rules. In the coastal waters northerly and inshore of the international bridge that connects Lubec to Campobello Island, New Brunswick, Canada, a person may not fish for, take or possess more than 15 gallons of scallop meat per day. Under this subsection a person may not unload any portion of a day's catch and return to fishing. The department shall establish by rule a bushel limit of shellstock that is equivalent to 15 gallons of meat. The department shall also establish by rule a method to allow harvesters to

land and possess scallops in Cobscook Bay that are taken outside the area defined in this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 557, §8 (AMD) .]

2. Culling required.

[2003, c. 63, §1 (RP) .]

3. (CONFLICT: Text as repealed and replaced by PL 2007, c. 557, §9) Violation. Notwithstanding section 6174, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2007, c. 557, §9 (RPR) .]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 557, §9 (RPR) .]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B. [2007, c. 557, §9 (NEW) .]

[2007, c. 557, §9 (RPR) .]

3. (CONFLICT: Text as repealed by PL 2007, c. 607, Pt. A, §10) Violation.

[2007, c. 607, Pt. A, §10 (RP) .]

3-A. Violation. A person who violates this section commits a civil violation. The following penalties apply:

A. For the first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; and [2007, c. 607, Pt. A, §11 (NEW) .]

B. For the 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2007, c. 607, Pt. A, §11 (NEW) .]

C. For the 3rd and subsequent offenses, a mandatory fine of \$750 is imposed and all scallops on board may be seized and the scallop dragging license may be suspended for one year. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2007, c. 607, Pt. A, §11 (NEW) .]

[2007, c. 607, Pt. A, §11 (NEW) .]

SECTION HISTORY

2001, c. 192, §1 (NEW). 2003, c. 63, §1 (AMD). 2007, c. 557, §§8, 9 (AMD). 2007, c. 607, Pt. A, §§10, 11 (AMD).

§6728-A. SHELL SIZE MINIMUM

(REALLOCATED TO TITLE 12, SECTION 6721-A)

(REALLOCATED FROM TITLE 12, SECTION 6729)

SECTION HISTORY

RR 2003, c. 1, §7 (RAL). 2003, c. 520, §8 (RAL).

§6728-B. HABITUAL VIOLATIONS

The commissioner shall suspend the handfishing scallop license or other license issued under this Part authorizing the taking of scallops of any license holder adjudicated or convicted in court of a 3rd or subsequent violation of this subchapter. The suspension must be for at least one year from the date of conviction and may be for up to 3 years. [2007, c. 695, Pt. I, §9 (RPR).]

SECTION HISTORY

2007, c. 557, §10 (NEW). 2007, c. 607, Pt. B, §8 (NEW). 2007, c. 695, Pt. I, §9 (RPR).

§6728-C. DIVE-ONLY AREAS

1. Dragging in dive-only areas prohibited. A person may not take scallops by dragging in a dive-only area, as established in subsection 2.

[2013, c. 230, §1 (NEW) .]

2. Dive-only areas established. At the written request of a municipality, the commissioner may establish in harbors where there are 5 or more moorings within that municipality dive-only areas where a person may fish for or take scallops by hand.

[2013, c. 230, §1 (NEW) .]

3. Violation. A person who violates subsection 1 commits a civil violation for which the following penalties apply:

A. For a first offense, a mandatory fine of \$500 is imposed and all scallops on board may be seized; [2013, c. 230, §1 (NEW).]

B. For a 2nd offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized; and [2013, c. 230, §1 (NEW).]

C. For a 3rd or subsequent offense, a mandatory fine of \$750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B. [2013, c. 230, §1 (NEW).]

[2013, c. 230, §1 (NEW) .]

4. Rules. The commissioner may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2013, c. 230, §1 (NEW) .]

SECTION HISTORY

2013, c. 230, §1 (NEW).

Article 3: SCALLOP RESEARCH HEADING: PL 2003, C. 319, §2 (NEW)

§6729. LICENSE SURCHARGES

1. License surcharges. The following surcharges are assessed on licenses issued by the department:

A. For a hand fishing scallop license, \$100; [2003, c. 319, §2 (NEW).]

B. For a scallop draggers license, \$100; [2007, c. 607, Pt. A, §12 (AMD).]

C. For a sea urchin and scallop diving tender license, \$50; [2009, c. 561, §24 (AMD).]

D. For a noncommercial scallop license, \$40; and [2009, c. 561, §25 (AMD) .]

E. For a hand fishing scallop license with tender, \$100. [2009, c. 561, §26 (NEW) .]

[2009, c. 561, §§24-26 (AMD) .]

2. Deposit. The commissioner shall deposit surcharges assessed in this section in the Scallop Research Fund under section 6729-A, except that fees collected under subsection 1, paragraph C must be divided equally between the Scallop Research Fund and the Sea Urchin Research Fund established in section 6749-R.

§6729. Shell size minimum

(As enacted by PL 2003, c. 63, §2 is REALLOCATED TO TITLE 12, SECTION 6728-A)

[2009, c. 561, §27 (AMD) .]

SECTION HISTORY

RR 2003, c. 1, §7 (RAL). 2003, c. 63, §2 (NEW). 2003, c. 319, §2 (NEW). 2007, c. 607, Pt. A, §12 (AMD). 2009, c. 561, §§24-27 (AMD).

§6729-A. SCALLOP RESEARCH FUND

The Scallop Research Fund, referred to in this section as "the fund," is established in the department. Balances in the fund may not lapse and must be carried forward to the next fiscal year. [2003, c. 319, §2 (NEW) .]

1. Uses of fund. The commissioner shall use the fund for research directly related to scallop fishery management information needs, for implementation of scallop management measures and for reporting to licensed scallop harvesters on the results of research and the use of fund revenues. The commissioner may authorize the expenditure of money in the fund for research and development programs that address the restoration, development or conservation of scallop resources. The commissioner shall consult with the Scallop Advisory Council under section 6729-B before deciding upon research projects and awarding grants from the fund. The fund may also be used for support of the Scallop Advisory Council, including reimbursement for travel expenses.

[2007, c. 607, Pt. A, §13 (AMD) .]

2. Sources of revenue. The fund is capitalized by surcharges assessed under section 6729. In addition to those revenues, the commissioner may accept and deposit in the fund money from any other source, public or private.

[2003, c. 319, §2 (NEW) .]

3. Scallop Advisory Council. The commissioner shall consult with the Scallop Advisory Council under section 6729-B on the expenditure of funds under this section.

[2003, c. 319, §2 (NEW) .]

SECTION HISTORY

2003, c. 319, §2 (NEW). 2007, c. 607, Pt. A, §13 (AMD).

§6729-B. SCALLOP ADVISORY COUNCIL

1. Appointment; composition. The Scallop Advisory Council, referred to in this section as "the council," established by Title 5, section 12004-I, subsection 57-F, consists of 13 members. The commissioner shall appoint the members as follows:

A. Four scallop harvesters who hold current hand fishing scallop licenses; [2003, c. 319, §2 (NEW) .]

B. Four scallop harvesters who hold current scallop draggers licenses; [2003, c. 319, §2 (NEW) .]

C. Two wholesale seafood license holders who deal in scallops; [2003, c. 319, §2 (NEW) .]

D. Two scientists who have expertise in marine resources management; and [2003, c. 319, §2 (NEW) .]

E. One person who is a public member. [2003, c. 319, §2 (NEW) .]

The commissioner shall ensure geographic representation in making appointments under paragraphs A and B.

[2003, c. 319, §2 (NEW) .]

2. Term. A member serves for a 2-year term, except that a vacancy must be filled by the commissioner for the unexpired portion of a term. When a vacancy occurs, the commissioner shall fill the vacancy by appointing a member from the same category of members listed in subsection 1 as the member who vacated the council. A member continues to serve until the member's successor is appointed.

[2003, c. 319, §2 (NEW) .]

3. Purpose. The council shall make recommendations to the commissioner concerning:

A. Research projects and grants made by the Scallop Research Fund. The council may seek advice from scientists who have expertise in marine resources management in determining the research needs for the scallop fishery; and [2003, c. 319, §2 (NEW) .]

B. Other matters of interest to the scallop fishery. [2003, c. 319, §2 (NEW) .]

[2003, c. 319, §2 (NEW) .]

4. Compensation. Members are entitled to expenses according to Title 5, chapter 379.

[2003, c. 319, §2 (NEW) .]

5. Chair and officers. The council shall choose annually one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

[2003, c. 319, §2 (NEW) .]

6. Meetings. The council shall meet at least once a year. It may also meet at other times at the call of the chair or the chair's designee or at the call of the commissioner or the commissioner's designee.

[2003, c. 319, §2 (NEW) .]

SECTION HISTORY

2003, c. 319, §2 (NEW) .

Subchapter 2-A: QUAHOGS

Article 1: LICENSES

§6731. MAHOGANY QUAHOGS

1. License required. Except as provided in subsection 3, a person may not engage in the activities authorized under this section without a current mahogany quahog license.

[2001, c. 421, Pt. B, §42 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Licensed activities. The holder of a mahogany quahog license may:

A. Fish for or take mahogany quahogs in any harvesting area indicated on the license; [1989, c. 828, §2 (NEW) .]

B. Possess or transport mahogany quahogs within the State; or [2005, c. 434, §7 (AMD) .]

C. Sell mahogany quahogs that the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail certificate holder under section 6852, subsection 2-A. [2011, c. 598, §32 (AMD) .]

The license authorizes crew members aboard the licensee's boat to undertake these activities when engaged in dragging for mahogany quahogs if the licensee is present.

[2011, c. 598, §32 (AMD) .]

3. Personal use exception. A person may take or possess no more than 3 bushels of mahogany quahogs for personal use in one day without a license.

[2001, c. 421, Pt. B, §42 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Fee. The fee for a mahogany quahog license is \$128. Fees collected pursuant to this section must be deposited in the General Fund.

[2009, c. 213, Pt. G, §20 (AMD) .]

5. Conditions. Each licensee may participate in the monitoring program established in section 6731-A within the harvest area indicated on the license. The holder of a mahogany quahog license shall comply with all other conditions of licensing established by the commissioner.

[1989, c. 828, §3 (NEW) .]

6. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §42 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1981, c. 297, §4 (NEW). 1981, c. 550, (AMD). 1989, c. 828, §§1-3 (AMD). 1991, c. 390, §8 (AMD). 1991, c. 528, §T9 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T9 (AMD). 2001, c. 421, §B42 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW16 (AMD). 2005, c. 434, §7 (AMD). 2009, c. 213, Pt. G, §20 (AMD). 2009, c. 217, §3 (AMD). 2011, c. 598, §32 (AMD).

§6731-A. MAHOGANY QUAHOG MONITORING PROGRAM

The department shall establish a program to protect the public health by monitoring the levels of paralytic shellfish toxin in mahogany quahogs. The department shall identify harvesting areas, sampling areas and stations needed to achieve this goal in accordance with the following provisions. [1989, c. 828, §4 (NEW).]

1. Harvesting areas. The department shall establish harvesting areas that reflect the demand for taking mahogany quahogs by harvesters from the various regions of the State and the relative location of mahogany quahog beds.

[1989, c. 828, §4 (NEW) .]

2. Industry groups. For each harvesting area the department shall establish a volunteer industry-based group to select mahogany quahog harvesters to collect samples and transport department personnel to and from sampling areas. Each group shall select and notify the department of the mahogany quahog harvesters who have volunteered for each month's sampling duty in the harvesting area.

[1989, c. 828, §4 (NEW) .]

3. Sampling. The department shall schedule all sampling runs. A department observer shall be on board each vessel engaged in the sampling activity. The department shall notify the harvester in advance as to the time, location and number of samples to be collected. In the event weekly collection of samples is not feasible, an alternative sampling date may be established by the department. The department shall test for the presence of paralytic shellfish toxin in the samples.

[1989, c. 828, §4 (NEW) .]

4. Rules. The commissioner may adopt rules, in accordance with the Maine Administrative Procedure Act, necessary to achieve the intent of this section.

[1989, c. 828, §4 (NEW) .]

5. Mahogany Quahog Monitoring Fund. The Mahogany Quahog Monitoring Fund is established within the department. The commissioner shall use any money credited to the Mahogany Quahog Monitoring Fund for the collection of samples required under this section to monitor the level of paralytic shellfish toxin in mahogany quahogs and to conduct stock assessments of the mahogany quahog resource. All money in the Mahogany Quahog Monitoring Fund is subject to allocation by the Legislature. The Mahogany Quahog Monitoring Fund may not lapse but must carry forward to be used for the same purpose. Nothing in this subsection prohibits the commissioner from using other funds budgeted by the department to carry out the purposes of this section.

[2003, c. 593, §1 (AMD) .]

6. Stock assessment. The department shall conduct stock assessments of the mahogany quahog resource beginning no later than January 1, 2005.

[2011, c. 598, §33 (AMD) .]

SECTION HISTORY

1989, c. 828, §4 (NEW). 1991, c. 561, §1 (AMD). 2003, c. 593, §§1,2 (AMD). 2011, c. 598, §33 (AMD).

§6732. OTHER QUAHOGS

1. License required. A person may not engage in the activities authorized under this section without a current commercial shellfish license or other license issued under this Part authorizing the activities.

[2005, c. 434, §8 (AMD) .]

2. Licensed activities. The holder of a commercial shellfish license may fish for or take quahogs, other than mahogany quahogs, or possess or transport quahogs within the state limits or sell quahogs the holder has taken to a wholesale seafood license holder certified under section 6856.

[2005, c. 434, §8 (AMD) .]

3. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §43 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1981, c. 297, §4 (NEW). 2001, c. 421, §B43 (AMD). 2001, c. 421, §C1 (AFF). 2005, c. 434, §8 (AMD).

Article 2: LIMITS ON FISHING

§6741. MINIMUM SIZE

(REPEALED)

SECTION HISTORY

1981, c. 297, §4 (NEW). 1981, c. 462, §§4,5 (AMD). 1985, c. 481, §A43 (AMD). 1985, c. 586, (AMD). 1987, c. 694, §3 (AMD). 1991, c. 784, §7 (RP).

§6742. QUAHOG TAX

(REPEALED)

SECTION HISTORY

1981, c. 297, §4 (NEW). 1985, c. 481, §A44 (RP).

§6742-A. MAHOGANY QUAHOG TAX

(REPEALED)

SECTION HISTORY

1985, c. 784, §2 (NEW). 1987, c. 513, §8 (RP).

§6743. CLOSED AREAS

1. Mahogany quahogs from closed areas. A person may not:

A. Fish for or take mahogany quahogs from an area closed pursuant to section 6172; or [2011, c. 691, Pt. F, §1 (AMD) .]

B. Possess, ship, transport or sell mahogany quahogs taken from an area closed pursuant to section 6172. [2011, c. 691, Pt. F, §1 (AMD).]

[2011, c. 691, Pt. F, §1 (AMD) .]

2. Washing or holding in closed areas. A person may not:

A. Wash, hold or keep mahogany quahogs in an area closed pursuant to section 6172; or [2011, c. 691, Pt. F, §1 (AMD).]

B. Possess, ship, transport or sell mahogany quahogs washed, held or kept in an area closed pursuant to section 6172. [2011, c. 691, Pt. F, §1 (AMD).]

[2011, c. 691, Pt. F, §1 (AMD) .]

3. Exception. This section does not apply to the taking of mahogany quahogs under the authority of section 6856.

[2011, c. 691, Pt. F, §1 (AMD) .]

SECTION HISTORY

1981, c. 297, §4 (NEW). 2003, c. 452, §F21 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 520, §9 (AMD). 2011, c. 691, Pt. F, §1 (AMD).

Subchapter 2-B: MUSSELS HEADING: PL 1987, C. 328, §3 (NEW)

§6745. HAND-RAKING MUSSEL LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current mussel license or other license issued under this Part authorizing the activities.

[2001, c. 421, Pt. B, §44 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Licensed activity. The holder of a hand-raking mussel license may take mussels by hand raking or possess or transport mussels within the state limits or sell mussels the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail certificate holder under section 6852, subsection 2-A.

[2011, c. 598, §34 (AMD) .]

2-A. Licensed activities; aquaculture. The holder of a hand-raking mussel license who is also the holder or authorized representative of a holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C and personnel who are operating under the authority of such a holder of a hand-raking mussel license may remove, possess, transport within the state limits or sell cultured mussels the holder has removed from the leased area or the licensed gear to a wholesale seafood license holder certified under section 6856. Such a holder of a hand-raking mussel license may also sell such mussels from that license holder's home in the retail trade. The department shall establish by rule a means to identify personnel operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 522, §4 (NEW) .]

3. Eligibility. A hand-raking mussel license may be issued only to an individual who is a resident.

[2001, c. 421, Pt. B, §44 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Exception. In any one day, a person may take or possess not more than 2 bushels of shellstock for personal use without a mussel license.

[2005, c. 434, §9 (AMD) .]

5. Fee. The fee for a hand-raking mussel license is \$133.

[2009, c. 213, Pt. G, §21 (AMD) .]

6. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §44 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1987, c. 328, §3 (NEW). 1987, c. 826, §3 (AMD). 1989, c. 348, §6 (AMD). 1991, c. 528, §T10 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T10 (AMD). 2001, c. 421, §B44 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW17 (AMD). 2005, c. 434, §9 (AMD). 2007, c. 522, §4 (AMD). 2009, c. 213, Pt. G, §21 (AMD). 2009, c. 217, §4 (AMD). 2011, c. 598, §34 (AMD).

§6746. MUSSEL BOAT LICENSE

1. License required. A person may not use a boat for dragging for mussels unless that boat carries a current mussel boat license issued by the commissioner.

[2001, c. 421, Pt. B, §45 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Licensed activity. A boat license under this section may be used for dragging for mussels. The holder of a mussel boat license may also possess or transport mussels within the state limits or sell mussels the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail certificate holder under section 6852, subsection 2-A. The license also authorizes the captain and crew members aboard the licensed boat when engaged in dragging for mussels to undertake these activities. A mussel boat license does not authorize the holder to fish for or take mussels in violation of a municipal ordinance adopted pursuant to section 6671.

[2011, c. 598, §35 (AMD) .]

2-A. Licensed activities; aquaculture. The holder of a mussel boat license who is also the holder or authorized representative of a holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C and personnel who are operating under the authority of such a holder of a mussel boat license may remove, possess, transport within the state limits or sell cultured mussels the holder has removed from the leased area to a wholesale seafood license holder certified under section 6856. Such a holder of a mussel boat license may also sell such mussels from that license holder's home in the retail trade. The department shall establish by rule a means to identify personnel operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 522, §5 (NEW) .]

3. Eligibility. A mussel boat license may be issued only to an individual who is a resident.

[2001, c. 421, Pt. B, §45 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Exception. In any one day, a person may take or possess not more than 2 bushels of shell mussels for personal use without a mussel license.

[2001, c. 421, Pt. B, §45 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

5. Fee. The fee for a mussel boat license is \$265.

[2009, c. 213, Pt. G, §22 (AMD) .]

6. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §45 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1987, c. 328, §3 (NEW). 1987, c. 694, §4 (AMD). 1987, c. 826, §4 (AMD). 1989, c. 348, §7 (AMD). 1991, c. 528, §T11 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T11 (AMD). 2001, c. 421, §B45 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW18 (AMD). 2005, c. 434, §10 (AMD). 2007, c. 494, §3 (AMD). 2007, c. 522, §5 (AMD). 2009, c. 213, Pt. G, §22 (AMD). 2009, c. 217, §5 (AMD). 2011, c. 598, §35 (AMD).

§6746-A. NIGHT PROHIBITION

A person may not fish for or take mussels pursuant to section 6746 between sunset and sunrise within the territorial waters except that the commissioner may authorize the harvest of seed mussels during those times. [2007, c. 615, §17 (NEW).]

SECTION HISTORY

2007, c. 615, §17 (NEW).

§6747. CLOSED AREAS

1. Taking from closed areas. A person may not:

A. Fish for or take mussels from an area closed pursuant to section 6172; or [2011, c. 691, Pt. F, §2 (AMD).]

B. Possess, ship, transport or sell mussels taken from an area closed pursuant to section 6172. [2011, c. 691, Pt. F, §2 (AMD).]

[2011, c. 691, Pt. F, §2 (AMD) .]

2. Washing or holding in closed areas. A person may not:

A. Wash, hold or keep mussels in an area closed pursuant to section 6172; or [2011, c. 691, Pt. F, §3 (AMD).]

B. Possess, ship, transport or sell mussels washed, held or kept in an area closed pursuant to section 6172. [2011, c. 691, Pt. F, §3 (AMD).]

[2011, c. 691, Pt. F, §3 (AMD) .]

3. Exception. This section does not apply to:

A. The taking of mussels under the authority of section 6856. [2003, c. 520, §10 (AMD).]

B. [2003, c. 520, §10 (RP).]

[2003, c. 520, §10 (AMD) .]

SECTION HISTORY

1987, c. 328, §3 (NEW). 2003, c. 452, §F22 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 520, §10 (AMD). 2011, c. 691, Pt. F, §§2, 3 (AMD).

Subchapter 2-C: SEA URCHINS HEADING: PL 1993, C. 416, §2 (NEW)

Article 1: LICENSES HEADING: PL 1993, C. 416, §2 (NEW)

§6748. HANDFISHING SEA URCHIN LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current handfishing sea urchin license or other license issued under this Part authorizing the activities. A person acting as tender to an individual possessing a current individual handfishing sea urchin license issued under subsection 4, paragraph A shall possess a sea urchin and scallop diving tender license issued under section 6535. The handfishing sea urchin license with tender issued under subsection 4, paragraph B authorizes a person to engage in the activities described in section 6535, subsection 2 aboard the licensee's boat when it is engaged in the harvesting of sea urchins.

[2009, c. 561, §28 (RPR) .]

1-A. Exception. A person may act as a tender to an individual possessing a current handfishing sea urchin license with tender issued under subsection 4, paragraph B without being licensed under this Part if that person has met the tender safety requirements adopted by rule pursuant to section 6533.

[2009, c. 561, §28 (NEW) .]

2. Licensed activity. The holder of a handfishing sea urchin license may take sea urchins by hand or possess, ship, transport or sell sea urchins. An unlicensed person acting as a tender for an individual licensed under subsection 4, paragraph B, in accordance with subsection 1-A, may possess, ship, transport and sell sea urchins the handfishing sea urchin license holder has taken subject to the requirements of paragraph A.

A. An unlicensed person acting as a tender may not sell sea urchins unless the person:

(1) Sells sea urchins to a purchaser who holds a valid wholesale seafood license with a sea urchin buyer's permit or a valid wholesale seafood license with a sea urchin processor's permit or a valid retail seafood license; and

(2) Provides to the purchaser the name and license number of the license holder with whom the person was engaged when the sea urchins were harvested. [2013, c. 282, §6 (NEW) .]

B. A holder of a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit or a retail seafood license who purchases sea urchins from an unlicensed person acting as a tender must purchase the sea urchins by check or cashier's check unless there is a written receipt associated with the transaction, and the holder of a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit or a retail seafood license who purchases sea urchins from an unlicensed person acting as a tender shall report the information provided by the person under paragraph A, subparagraph (2) in accordance with section 6173. [2013, c. 1, §23 (COR) .]

A person may not act as a tender under subsection 4, paragraph B unless that person has met the tender safety requirements adopted by rule pursuant to section 6533.

[2013, c. 1, §23 (COR) .]

3. Eligibility. A handfishing sea urchin license may be issued only to an individual who is a resident.

[2009, c. 561, §28 (RPR) .]

4. Zone 2 fee. Fees for Zone 2 handfishing sea urchin licenses are:

A. For an individual handfishing sea urchin license, \$152; and [2009, c. 561, §28 (RPR).]

B. For a handfishing sea urchin license with tender, \$202. [2009, c. 561, §28 (RPR).]

[2011, c. 598, §36 (AMD) .]

4-A.

[2009, c. 561, §28 (RPR); T. 12, §6748, sub-§4-A (RP) .]

4-B. Zone 1 fee. Fees for Zone 1 handfishing sea urchin licenses are, if the Zone 1 season is not longer than 10 days:

A. For an individual handfishing sea urchin license, \$25; and [2011, c. 598, §37 (NEW).]

B. For a handfishing sea urchin license with tender, \$50. [2011, c. 598, §37 (NEW).]

If the Zone 1 season is longer than 10 days, the department may by rule increase the individual handfishing sea urchin license fee and handfishing sea urchin license with tender fee to an amount no higher than the amount specified in subsection 4. Rules adopted under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2011, c. 598, §37 (NEW) .]

5. Rebuttable presumption. It is unlawful for an individual to dive from a vessel with sea urchins on board unless that individual is licensed under this section. It is a rebuttable presumption that an individual diving from a vessel with sea urchins on board at any time of the year is diving for the purpose of fishing for or taking sea urchins.

[2009, c. 561, §28 (RPR) .]

5. (REALLOCATED TO T. 12, §6748, sub-§6) Violation.

[2001, c. 421, Pt. B, §46 (NEW); 2001, c. 421, Pt. C, §1 (AFF); 2001, c. 667, Pt. A, §7 (RAL) .]

6. (REALLOCATED FROM T. 12, §6748, sub-§5) Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2009, c. 561, §28 (RPR) .]

SECTION HISTORY

1993, c. 416, §2 (NEW). 1993, c. 416, §4 (AFF). 2001, c. 327, §4 (AMD). 2001, c. 421, §B46 (AMD). 2001, c. 421, §C1 (AFF). 2001, c. 667, §A7 (AMD). 2003, c. 20, §WW19 (AMD). 2009, c. 213, Pt. G, §23 (AMD). 2009, c. 396, §8 (AMD). 2009, c. 561, §28 (RPR). 2011, c. 598, §§36, 37 (AMD). RR 2013, c. 1, §23 (COR). 2013, c. 282, §6 (AMD).

§6748-A. SEA URCHIN DRAGGERS LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current sea urchin dragging license.

[2001, c. 667, Pt. A, §8 (RPR) .]

2. Licensed activity. The holder of a sea urchin dragging license may use the vessel named on the holder's license to drag for sea urchins. The license also authorizes the captain and crew members aboard the vessel named on the license to drag for and possess, ship, transport and sell sea urchins, except that the captain and crew members may not drag for sea urchins if the license holder is not aboard the vessel.

[2001, c. 327, §21 (AFF); 2001, c. 327, §6 (RPR) .]

2-A. Change of named individual. A person who is the owner of a vessel named on a sea urchin dragging license in 2000 but not the individual named on that license may apply to the commissioner to be the individual named on that sea urchin dragging license in 2002. The person must provide written notarized documentation to the commissioner authorizing the change in license name by the individual who was named on that license in 2000. If no such request is received by the commissioner by December 1, 2001, then the individual named on the 2002 sea urchin dragging license will be the same as the individual named on the 2001 sea urchin dragging license and no future changes of the named individual will be permitted.

[2001, c. 327, §7 (NEW) .]

2-B. Exemptions. Notwithstanding subsection 2, the commissioner may authorize a person to fish for or take sea urchins from a vessel when the person holding a sea urchin dragging license that contains the name of that vessel is not on board if:

A. The holder of the sea urchin dragging license documents to the commissioner that an illness or disability temporarily prevents the license holder from fishing for or taking sea urchins from that vessel and requests in writing to the commissioner that the commissioner authorize another person to use that vessel to fish for or take sea urchins from the vessel; [2001, c. 327, §7 (NEW); 2001, c. 327, §21 (AFF) .]

B. The vessel named on the license of a license holder is temporarily inoperable because of an accident or a mechanical failure and the license holder requests in writing to the commissioner that the commissioner authorize the license holder to use another vessel to fish for or take sea urchins; or [2001, c. 327, §7 (NEW); 2001, c. 327, §21 (AFF) .]

C. An individual documents to the commissioner that the individual has held or leased more than one sea urchin dragging license for 3 consecutive years, was the owner of the vessels named on those licenses during those same years and is currently the owner of the vessels named on those licenses. Under this paragraph, the commissioner may renew each license held by the eligible individual if the vessel named on that license is unchanged from the vessel named on the license in 2000. [2001, c. 327, §7 (NEW); 2001, c. 327, §21 (AFF) .]

[2001, c. 327, §7 (NEW); 2001, c. 327, §21 (AFF) .]

3. Eligibility. A sea urchin dragging license may be issued only to an individual who is a resident.

[2001, c. 421, Pt. B, §47 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Zone 2 fee. The fee for a Zone 2 sea urchin dragging license is \$152.

[2011, c. 598, §38 (AMD) .]

4-A. Temporary Zone 1 fee.

[2009, c. 396, §9 (NEW); T. 12, §6748-A, sub-§4A (RP) .]

4-B. Zone 1 fee. The fee for a Zone 1 sea urchin dragging license is \$25 per year when the season is no longer than 10 days. If the Zone 1 season is longer than 10 days, the department may by rule increase the sea urchin dragging license fee to an amount no higher than the amount specified in subsection 4. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2011, c. 598, §39 (NEW) .]

5. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §47 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1993, c. 416, §2 (NEW). 1993, c. 740, §1 (AMD). 2001, c. 327, §§5-7 (AMD). 2001, c. 327, §21 (AFF). 2001, c. 421, §B47 (AMD). 2001, c. 421, §C1 (AFF). 2001, c. 667, §A8 (AMD). 2003, c. 20, §WW20 (AMD). 2009, c. 213, Pt. G, §24 (AMD). 2009, c. 396, §9 (AMD). 2011, c. 598, §§38, 39 (AMD). MRS T. 12, §6748-A, sub-§4A (AMD).

§6748-B. SEA URCHIN BOAT TENDER LICENSE

(REPEALED)

SECTION HISTORY

1993, c. 416, §2 (NEW). 1995, c. 392, §3 (RP).

§6748-C. DRAGS

Except as provided in this section, it is unlawful for any person to fish for or take sea urchins using a drag, or any combination of drags, in any coastal waters of the State. [1993, c. 740, §2 (NEW) .]

1. Exception. The commissioner may adopt rules that allow the use of a drag that is designed to minimize impact on the benthic environment and harvested resources. Rules adopted by the commissioner under this section must describe the type of drag that may be used, including any limitations on type or size of drag components or limitations on the length or width of the drag.

[1993, c. 740, §2 (NEW) .]

SECTION HISTORY

1993, c. 740, §2 (NEW).

§6748-D. SEA URCHIN HAND-RAKING AND TRAPPING LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current sea urchin hand-raking and trapping license.

[2001, c. 421, Pt. B, §48 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Licensed activity. The holder of a sea urchin hand-raking and trapping license may take sea urchins by hand-raking or by trap and may possess, ship, transport or sell sea urchins taken by that licensee.

[1995, c. 392, §4 (NEW) .]

3. Eligibility. A sea urchin hand-raking and trapping license may be issued only to an individual who is a resident.

[2001, c. 421, Pt. B, §48 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Fee. The fee for a sea urchin hand-raking and trapping license is \$152.

[2009, c. 213, Pt. G, §25 (AMD) .]

4-A. Temporary Zone 1 fee.

[2009, c. 396, §10 (NEW); T. 12, §6748-D, sub-§4A (RP) .]

5. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §48 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1995, c. 392, §4 (NEW). 2001, c. 421, §B48 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW21 (AMD). 2009, c. 213, Pt. G, §25 (AMD). 2009, c. 396, §10 (AMD). MRSA T. 12, §6748-D, sub-§4A (AMD).

Article 2: LIMITS ON FISHING HEADING: PL 1993, C. 416, §2 (NEW)

§6749. SEA URCHIN HARVESTING SEASON AND OPEN DAYS

1. Closed season. It is unlawful for a person to fish for or take sea urchins from May 1st to August 31st.

[2001, c. 327, §8 (NEW) .]

2. Open days. The commissioner, in consultation with the Sea Urchin Zone Council under section 6749-X, shall establish by rule, within that area designated Zone 1 and that area designated as Zone 2 under section 6749-N, the open days for those zones during which a person may fish for or take sea urchins. Rules may specify the open days for gear type and may further define more than one time period. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[2001, c. 327, §8 (NEW) .]

3. Prohibition. It is unlawful for a person to possess aboard a vessel, fish for or take sea urchins on any day not designated as open to sea urchin harvesting under this section.

[2001, c. 327, §8 (NEW) .]

SECTION HISTORY

1993, c. 416, §2 (NEW). 1995, c. 392, §5 (RPR). 2001, c. 327, §8 (RPR).

§6749-A. MINIMUM SIZE

1. Zone 1 prohibition. Except as provided in this subsection, a person may not take, possess, ship, transport, buy or sell a sea urchin having shell measurements less than the minimum size established by rule for Zone 1.

A. A person holding a dragging license may take a sea urchin that measures less than the minimum size established by rule for Zone 1 if that sea urchin is harvested by dragging and is immediately culled on board and liberated alive into the marine waters. [2003, c. 200, §2 (NEW).]

B. A person who holds a hand-fishing license may take a sea urchin that measures less than the minimum size established by rule for Zone 1 as provided by the commissioner. [2003, c. 200, §2 (NEW).]

[2003, c. 200, §2 (NEW) .]

2. Zone 2 prohibition. A person may not take, possess, ship, transport, buy or sell a sea urchin having shell measurements less than the minimum size established by rule for Zone 2. A person may take a sea urchin that measures less than the minimum size established by rule for Zone 2 if that sea urchin is culled on board immediately after harvesting and is liberated alive into the marine waters.

[2003, c. 200, §2 (NEW) .]

3. Rules. The commissioner may adopt rules to carry out the purposes of this section and to provide for increases in the minimum shell size of sea urchins after consultation with the Sea Urchin Zone Council. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 200, §2 (NEW) .]

4. Penalties. The following penalties apply to violations of this section.

A. A person who violates this section commits a Class D crime for which a fine of not less than \$500 may be adjudged. [2003, c. 200, §2 (NEW).]

B. A person who violates this section after having previously violated this section commits a Class D crime for which a fine of not less than \$1,000 may be adjudged. [2003, c. 200, §2 (NEW).]

Fines imposed under this subsection may not be suspended.

[2003, c. 200, §2 (NEW) .]

SECTION HISTORY

1993, c. 416, §2 (NEW). 2001, c. 327, §9 (AMD). 2003, c. 200, §2 (RPR).

§6749-B. SEA URCHINS AND LOBSTERS; SIMULTANEOUS POSSESSION OR TRANSPORT PROHIBITED

A person licensed under section 6748 to take sea urchins by hand may not simultaneously possess or transport sea urchins and lobsters aboard a registered vessel. [1993, c. 416, §2 (NEW).]

SECTION HISTORY

1993, c. 416, §2 (NEW).

§6749-C. RULES

1. Importation and processing. The commissioner may adopt rules under this subchapter that require a sea urchins processor to maintain records sufficient to identify the point of origin of sea urchins received by that processor.

[1993, c. 416, §2 (NEW) .]

2. Fisheries management. The commissioner may adopt rules under chapter 607, subchapter I to promote the conservation and propagation of sea urchins. Those rules may include, but are not limited to, limits on size of drags used to take sea urchins, limits on the nighttime dragging of sea urchins and tolerance allowance for the harvesting of sea urchins less than 2 inches in the longest diameter.

[1993, c. 416, §2 (NEW) .]

3. Minimum size. Before January 1, 1994, the commissioner shall adopt rules establishing the method for determining whether a sea urchin measures less than 2 inches in the longest diameter. If necessary, the commissioner may use emergency rule-making authority under chapter 607, subchapter II to adopt rules under this subsection.

[1993, c. 416, §2 (NEW) .]

SECTION HISTORY

1993, c. 416, §2 (NEW).

Article 3: EMERGENCY LIMITATIONS; SEA URCHIN FISHERY HEADING: PL 1993, C. 740, §3 (NEW)

§6749-N. CLOSED AREAS; ZONE IDENTIFICATION

Notwithstanding section 6749, it is unlawful for a person to fish for or take sea urchins from: [1997, c. 685, §1 (AMD).]

1. Zone 1. Zone 1, from May 1st to July 31st. For the purposes of this article, "Zone 1" means all coastal waters west of a line beginning at the easternmost point of Fort Point State Park on Cape Jellison then running southwesterly to channel marker #1 south of Sears Island, then running southwesterly to channel marker RW "11" located between Marshall's Point and Bayside in the Town of Northport, then running southwesterly to Graves channel marker southeast of the Town of Camden, then running southeasterly to the Penobscot Bay Buoy "PB" east of Rockland harbor, then running southerly to the TBI whistle southwest of Junken Ledge, then running southeasterly to Red Nun #10 buoy at Foster Ledges, then running due south magnetic to the boundary of the State's coastal waters; and

[2013, c. 301, §17 (AMD) .]

2. Zone 2. Zone 2, from May 1st to July 31st. For the purpose of this article, "Zone 2" means all coastal waters east of that line established in subsection 1, including all coastal waters of the Penobscot River north of Fort Point State Park.

[1995, c. 595, §2 (AMD); 1995, c. 595, §6 (AFF) .]

3. Conservation areas. The commissioner may adopt rules to establish conservation areas pursuant to section 6171 for the purposes of sea urchin research that are considered closed areas for the purpose of this section. Fishing for sea urchins in a conservation area adopted through the department for sea urchin research is considered a violation of this subchapter and subject to the penalties under section 6749-Y. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[2001, c. 327, §10 (NEW) .]

SECTION HISTORY

1993, c. 740, §3 (NEW). 1995, c. 198, §1 (AMD). 1995, c. 392, §6 (AMD). 1995, c. 595, §2 (AMD). 1995, c. 595, §6 (AFF). 1997, c. 685, §1 (AMD). 2001, c. 327, §10 (AMD). 2011, c. 598, §40 (AMD). 2013, c. 301, §17 (AMD).

§6749-O. LIMITED ENTRY; EXCEPTIONS

1. Handfishing and dragging licenses.

[1997, c. 685, §2 (AMD); T. 12, §6749-O, sub-§1 (RP) .]

2. Hand-raking and trapping license.

[1997, c. 685, §2 (AMD); T. 12, §6749-O, sub-§2 (RP) .]

2-A. License eligibility. The commissioner may not issue a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license to any person unless that person:

A. Possessed that license in the previous calendar year; [2007, c. 615, §18 (NEW).]

B. Becomes eligible to obtain that license pursuant to a limited entry system under subsection 2-B; or [2007, c. 615, §18 (NEW).]

C. Did not possess a sea urchin license in the previous calendar year because the commissioner had suspended the person's license privileges for a length of time that included the previous calendar year. [2007, c. 615, §18 (NEW).]

[2007, c. 615, §18 (RPR) .]

2-B. Sea urchin license limited entry system. The commissioner shall establish by rule a limited entry system under which a person who did not hold a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license in the previous calendar year may become eligible to obtain that license for use in a zone established pursuant to section 6749-N. The rules for a limited entry system must include provisions for the method and administration of the program. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

A. [2001, c. 327, §11 (RP).]

B. [2001, c. 327, §11 (RP).]

C. [2001, c. 327, §11 (RP).]

D. [2001, c. 327, §11 (RP).]

E. [2001, c. 327, §11 (RP).]

F. [2001, c. 327, §11 (RP).]

[2001, c. 327, §11 (AMD) .]

3. Exceptions.

[1999, c. 643, §8 (RP) .]

4. License transfer.

[1999, c. 643, §8 (RP) .]

5. Protection from depletion. The commission may adopt rules for a sea urchin license limited entry system to prohibit a new entry in a year when it is necessary to protect or conserve the urchin fishery from imminent depletion.

[2013, c. 2, §17 (COR) .]

SECTION HISTORY

1993, c. 740, §3 (NEW). 1995, c. 392, §7 (RPR). 1995, c. 595, §3 (AMD). 1997, c. 685, §§2,3 (AMD). 1999, c. 643, §8 (AMD). 2001, c. 327, §11 (AMD). 2003, c. 200, §3 (AMD). 2007, c. 615, §18 (AMD). RR 2013, c. 2, §17 (COR).

§6749-P. LICENSES BY ZONE

A person eligible to purchase a license under section 6749-O may purchase those licenses only for Zone 1 or Zone 2. All of those licenses issued to any one person in any one year must be for the same zone. A person may not change from the zone in which the person harvested sea urchins in the previous calendar year unless the change is authorized in accordance with section 6749-Z. A handfishing sea urchin license, a sea urchin hand-raking and trapping license or a sea urchin dragging license authorizes the licensed activity only in the zone for which it is issued. A sea urchin dragging license must list the documentation or registration number of the vessel to be used by that licensee when dragging. A vessel documentation number or registration number may not be listed on more than one sea urchin dragging license. [2001, c. 327, §12 (AMD) .]

SECTION HISTORY

1993, c. 740, §3 (NEW). 1995, c. 392, §8 (AMD). 1995, c. 595, §4 (AMD). 1997, c. 685, §4 (AMD). 2001, c. 327, §12 (AMD).

§6749-Q. LICENSE SURCHARGES

The following surcharges are assessed on licenses issued by the department: [2001, c. 327, §13 (AMD) .]

1. Handfishing sea urchin license. One hundred and sixty dollars on a sea urchin handharvesting license;

[1995, c. 392, §8 (AMD) .]

1-A. Sea urchin hand-raking and trapping license. One hundred and sixty dollars on a sea urchin hand-raking and trapping license;

[1995, c. 392, §8 (NEW) .]

1-B. Handfishing sea urchin license with tender. One hundred and sixty dollars on a handfishing sea urchin license with tender.

[2009, c. 561, §29 (NEW) .]

2. Sea urchin dragging license. One hundred and sixty dollars on a sea urchin dragging license;

[1993, c. 740, §3 (NEW) .]

3. Sea urchin and scallop diving tender license. Thirty-five dollars on a sea urchin and scallop diving tender license;

[2007, c. 615, §19 (AMD) .]

4. Wholesale seafood license with a sea urchin buyer's permit. Five hundred dollars on a wholesale seafood license with a sea urchin buyer's permit; and

[1993, c. 740, §3 (NEW) .]

5. Wholesale seafood license with a sea urchin processor's permit. One thousand dollars on a wholesale seafood license with a sea urchin processor's permit.

[2001, c. 327, §14 (AMD) .]

The commissioner shall deposit all surcharges assessed in this section in the Sea Urchin Research Fund established in section 6749-R, except that fees collected under subsection 3 must be evenly split between the Sea Urchin Research Fund and the Scallop Research Fund established in section 6729-A. [2007, c. 615, §20 (AMD) .]

SECTION HISTORY

1993, c. 740, §3 (NEW). 1995, c. 392, §8 (AMD). 1995, c. 462, §A32 (AMD). 1997, c. 177, §1 (AMD). 1997, c. 685, §5 (AMD). 2001, c. 327, §§13,14 (AMD). 2007, c. 615, §§19, 20 (AMD). 2009, c. 561, §29 (AMD).

§6749-R. SEA URCHIN RESEARCH FUND

The Sea Urchin Research Fund, referred to in this article as the "fund," is established in the department. Balances in the fund may not lapse and must be carried forward and used for the purposes of this section. [1993, c. 740, §3 (NEW) .]

1. Uses of fund. The commissioner shall use the fund for research directly related to sea urchin fishery management information needs and for reporting to licensed sea urchin harvesters, boat tenders, processors and buyers on the results of research and the use of fund revenues. The purpose of that research must be to determine, with the highest reliability possible given available resources, the greatest level of effort that may be applied to the sea urchin fishery without harming the long-term economic and biological sustainability of the sea urchin fishery. The commissioner shall consult with the Sea Urchin Zone Council under section 6749-X before deciding upon research projects and awarding grants from the fund. The fund may be used to provide for safety education and training requirements for the sea urchin fishery and to administer management measures for the fishery. The commissioner shall consult with the Sea Urchin Zone Council on the expenditure of funds for these purposes. The fund may also be used to cover the costs associated with determining eligibility for licenses under this subchapter, for law enforcement and support for the Sea Urchin Zone Council, including reimbursement for travel expenses. Up to 30% of allotted revenues may be used for law enforcement purposes.

[2003, c. 200, §4 (AMD) .]

2. Sources of revenue. The fund is capitalized by surcharges assessed under section 6749-Q. In addition to those revenues, the commissioner may accept and deposit in the fund money from any other source, public or private. All money in the fund must be used for the purposes set forth in this section.

[1993, c. 740, §3 (NEW) .]

3. Reports. The commissioner shall submit an interim and a final report on expenditures from the fund and research findings to the joint standing committee of the Legislature having jurisdiction over marine resource matters. An interim report must be submitted by July 1, 1996. A 2nd interim report must be submitted by January 1, 1998. A final report must be submitted by January 1, 1999.

[1997, c. 177, §3 (AMD) .]

SECTION HISTORY

1993, c. 740, §3 (NEW). 1997, c. 177, §§2,3 (AMD). 1997, c. 685, §6 (AMD). 1999, c. 244, §2 (AMD). 1999, c. 309, §3 (AMD). 1999, c. 790, §A13 (AMD). 2001, c. 327, §15 (AMD). 2003, c. 200, §4 (AMD).

§6749-S. LOG BOOKS FOR SEA URCHIN BUYERS AND PROCESSORS

1. Log book; rules. The commissioner shall adopt rules requiring any person holding a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit to maintain a log book. The rules must indicate the type of data that must be recorded in the log book, the manner for producing the log books and the method for analyzing data from the log books. The commissioner shall charge a fee for the log book that is sufficient to recover all costs associated with the production of the log book and analysis of the data, except that any personnel and operating costs associated with the log book must be paid from allocations from the Sea Urchin Research Fund. Fees received by the department from the sale of log books are dedicated revenue and must be used by the department for the purposes of this section. The log book and data analysis may be produced and conducted by the department or may be produced and conducted by a public or private entity under contract with the department. Disclosure of any data collected under this section is subject to the confidentiality provisions of section 6173.

[1999, c. 244, §3 (NEW) .]

2. Reporting. The commissioner may deny an application for the renewal of a wholesale seafood license with a sea urchin buyer's permit or a wholesale seafood license with a sea urchin processor's permit if the license holder fails to maintain a log book or report the data required by rule pursuant to subsection 1.

[1999, c. 244, §3 (NEW) .]

Rules adopted by the commissioner to implement this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1999, c. 244, §3 (RPR) .]

SECTION HISTORY

1993, c. 740, §3 (NEW). 1999, c. 244, §3 (RPR).

§6749-T. REPEAL

(REPEALED)

SECTION HISTORY

1993, c. 740, §3 (NEW). 1997, c. 685, §7 (AMD). 2001, c. 327, §16 (RP).

§6749-U. EXTENSION OF CLOSING DATES

The commissioner may by rule extend the closing dates established under sections 6749 and 6749-N for entire zones or portions of zones for the purpose of conserving spawning sea urchins. [1995, c. 392, §9 (NEW).]

SECTION HISTORY

1995, c. 392, §9 (NEW).

§6749-V. DRAGGING CLOSURE

Notwithstanding section 6749-N, it is unlawful for a person to fish for or take sea urchins with a drag or any combination of drags in the coastal waters of the State from May 1st to September 30th. [1995, c. 595, §5 (NEW); 1995, c. 595, §6 (AFF).]

SECTION HISTORY

1995, c. 595, §5 (NEW). 1995, c. 595, §6 (AFF).

§6749-W. OPEN DAYS

(REPEALED)

SECTION HISTORY

1995, c. 595, §5 (NEW). 1995, c. 595, §6 (AFF). 1997, c. 177, §§4-6 (AMD). 1997, c. 685, §§8,9 (AMD). 1999, c. 26, §2 (AMD). 1999, c. 244, §4 (AMD). 2001, c. 327, §21 (AFF). 2001, c. 327, §17 (RP).

§6749-X. SEA URCHIN ZONE COUNCIL

1. Appointment and election; composition. The Sea Urchin Zone Council, referred to in this section as the "council," established by Title 5, section 12004-I, subsection 57-B, consists of 15 members. Seven members of the council are elected by the sea urchin industry as follows:

- A. One sea urchin harvester who holds a current handfishing sea urchin license for Zone 1; [2007, c. 176, §2 (AMD).]
- B. One sea urchin harvester who holds a current handfishing sea urchin license for Zone 2; [2007, c. 176, §2 (AMD).]
- C. One sea urchin harvester who holds a current sea urchin draggers license for Zone 1; [2007, c. 176, §2 (AMD).]
- D. One sea urchin harvester who holds a current sea urchin draggers license for Zone 2; [2007, c. 176, §2 (AMD).]
- E. One individual who holds a current wholesale seafood license with a sea urchin buyer's permit; [2007, c. 176, §2 (AMD).]
- F. One individual who holds a current wholesale seafood license with a sea urchin processor's permit ; and [2007, c. 176, §2 (AMD).]
- G. [1999, c. 244, §5 (RP).]
- H. [1999, c. 244, §5 (RP).]
- I. [2007, c. 176, §2 (RP).]
- J. One sea urchin harvester who holds a current boat tender's license. [1997, c. 685, §10 (NEW).]

The commissioner shall appoint the remaining 8 members. If possible, those 8 appointees must include, but not be limited to, a marine scientist, an aquaculturalist, a person holding a sea urchin draggers license, a person holding a sea urchin and scallop diving tender license and a person holding a sea urchin hand-raking and trapping license. In making appointments under this subsection, the commissioner shall select members to ensure a geographic distribution of representation from each zone.

[2007, c. 176, §2 (AMD) .]

1-A. Elections. The commissioner shall adopt by rule procedures for conducting the election of members required under subsection 1. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[2007, c. 176, §3 (NEW) .]

2. Term. Council members serve for 2 years and continue serving until a successor is duly appointed or elected and qualified. When a vacancy occurs of an appointed member, the commissioner shall fill the vacancy by appointing a member from the same category of members listed in subsection 1 as the member who vacated the council. When a vacancy occurs of an elected member, the vacancy must be filled by an election as provided by rule.

[2007, c. 176, §4 (AMD) .]

3. Purpose. The council shall make recommendations to the commissioner concerning:

A. The designation of open days for the harvesting of sea urchins by handfishing, dragging, hand-raking and trapping pursuant to rules adopted under section 6749; [2003, c. 510, Pt. A, §8 (AMD) .]

B. Research projects and grants funded by the Sea Urchin Research Fund under section 6749-R. The council may seek advice from scientists who have expertise in marine resource management in determining the research needs for the sea urchin fishery; [1999, c. 244, §6 (AMD) .]

C. Other matters of interest to the sea urchin fishery; and [1997, c. 685, §11 (AMD) .]

D. The ratio of the number of new licenses issued to the number of the licenses not renewed. [1997, c. 685, §12 (NEW) .]

[2003, c. 510, Pt. A, §8 (AMD) .]

4. Chair and officers. The council shall annually choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

[1995, c. 595, §5 (NEW) .]

5. Meetings. The council shall meet at least once each year. The council may also meet at other times at the call of the chair or the chair's designee or the call of the commissioner or the commissioner's designee.

[1995, c. 595, §5 (NEW) .]

6. Compensation. Members are entitled to compensation according to Title 5, chapter 379.

[2001, c. 327, §19 (NEW) .]

SECTION HISTORY

1995, c. 595, §5 (NEW). 1997, c. 177, §7 (AMD). 1997, c. 685, §§10-12 (AMD). 1999, c. 244, §§5,6 (AMD). 2001, c. 327, §§18,19 (AMD). 2003, c. 510, §A8 (AMD). 2007, c. 176, §§2-4 (AMD).

§6749-Y. PENALTY

Notwithstanding section 6204 and unless otherwise specified, a person who violates or fails to comply with this subchapter commits a Class D crime that is punishable by a fine of not less than \$500. The fine may not be suspended. [2003, c. 248, §9 (AMD).]

SECTION HISTORY

1995, c. 595, §5 (NEW). 2003, c. 248, §9 (AMD).

§6749-Z. CHANGING ZONES

1. Authorization of changes. Beginning in calendar year 1997, a person eligible to purchase a license under section 6749-O who wishes to change the zone in which the person harvests sea urchins may not change zones unless the change is authorized by the commissioner in accordance with this section.

[1995, c. 595, §5 (NEW) .]

2. Zone change request on application. A person eligible to purchase a license under section 6749-O who wishes to change the zone in which that person was licensed to harvest sea urchins in the previous calendar year must indicate on a sea urchin harvesting license application a preference to change the zone in which the person harvests sea urchins. The commissioner shall stamp each sea urchin harvesting license application with the time and date of submission.

[1995, c. 595, §5 (NEW) .]

3. Conditions for authorization. The total number of authorized change requests for Zone 1 during a licensing year must equal the total authorized requests for Zone 2. The commissioner shall authorize zone change requests in chronological order of requests received under this section.

[1999, c. 244, §7 (AMD) .]

4. Limitation on approving zone changes. The commissioner may not authorize a zone change between August 1st and December 31st.

[1999, c. 26, §3 (NEW) .]

5. Effective date of zone change. The effective date of a zone change authorized by the commissioner is August 1st.

[1999, c. 26, §3 (NEW) .]

SECTION HISTORY

1995, c. 595, §5 (NEW). 1997, c. 685, §13 (AMD). 1999, c. 26, §3 (AMD). 1999, c. 244, §7 (AMD).

Subchapter 3: MARINE WORMS

Article 1: LICENSES

§6751. MARINE WORM DIGGER'S LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current marine worm digger's license or other license issued under this Part authorizing the activities.

[2001, c. 421, Pt. B, §49 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Licensed activity. The holder of a marine worm digger's license may fish for or take marine worms or possess, ship, transport or sell within the State worms the licensee has taken.

[2001, c. 421, Pt. B, §49 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

3. Eligibility. A marine worm digger's license may be issued only to an individual who is a resident.

[2001, c. 421, Pt. B, §49 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Fee. The fee for a marine worm digger's license is \$50.

[2009, c. 213, Pt. G, §26 (AMD) .]

5. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §49 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1977, c. 713, §8 (AMD). 1981, c. 480, §§6,15,16 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1985, c. 379, §4 (AMD). 1991, c. 528, §T12 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T12 (AMD). 2001, c. 421, §B49 (AMD). 2001, c. 421, §C1 (AFF). 2009, c. 213, Pt. G, §26 (AMD).

§6752. EXCEPTION FOR PERSONAL USE

Any person may take or possess not more than 50 marine worms in any one day for personal use without a marine worm digger's license or a marine worm dealer's license. [2013, c. 301, §18 (AMD).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 2013, c. 301, §18 (AMD).

Article 2: LIMITS ON FISHING AND INSPECTION

§6771. TAKING MARINE WORMS BY HAND

It shall be unlawful to fish for or take marine worms, except by devices or instruments operated solely by hand power. [1977, c. 661, §5 (NEW).]

SECTION HISTORY

1977, c. 661, §5 (NEW).

§6772. METHODS OF SALE AND INSPECTION OF MARINE WORMS

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 583, (RP).

Article 3: MARINE WORM FUND

§6791. MARINE WORM FUND

1. Deposit of license revenues. Revenues from marine worm licenses must be paid into the Marine Worm Fund as follows:

A. Forty-three dollars from a marine worm digger's license; [2009, c. 213, Pt. G, §27 (NEW) .]

B. Fifty-five dollars from a marine worm dealer's license; and [2009, c. 213, Pt. G, §27 (NEW) .]

C. Twenty-two dollars from a supplemental marine worm dealer's license. [2009, c. 213, Pt. G, §27 (NEW) .]

The fund must be maintained by the commissioner.

[2009, c. 213, Pt. G, §27 (AMD) .]

2. Purposes of fund. The commissioner may expend the money in the fund for research related to marine worms or the marine worm industry or for the restoration, development and conservation of the marine worm industry, including the development and maintenance of permanent or temporary facilities for those purposes.

[1977, c. 661, §5 (NEW) .]

3. Nonlapsing. The Marine Worm Fund shall not lapse.

[1977, c. 661, §5 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 2009, c. 213, Pt. G, §27 (AMD).

Subchapter 4: MISCELLANEOUS SPECIES

Article 1: LICENSES

§6801. SEA MOSS LICENSE

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 480, §§7,15,16 (AMD). 1983, c. 116, §2 (RP). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD).

§6801-A. SEA CUCUMBER DRAG LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current sea cucumber drag license. A sea cucumber drag license must list the documentation or registration number of the vessel to be used by the licensee when dragging.

[2005, c. 27, §1 (NEW) .]

2. Licensed activities. The holder of a sea cucumber drag license may use the vessel named on the holder's license to drag for sea cucumbers. The license also authorizes the captain and crew members aboard the vessel named on the license to drag for and possess, ship, transport and sell sea cucumbers, except that the captain and crew members may not drag for sea cucumbers if the license holder is not aboard the vessel.

[2005, c. 27, §1 (NEW) .]

3. Exemptions. Notwithstanding subsection 2, the commissioner may authorize a person to fish for or take sea cucumbers from a vessel when the person holding a sea cucumber drag license that contains the name of that vessel is not on board if:

A. The holder of the sea cucumber drag license documents to the commissioner that an illness or disability temporarily prevents the license holder from fishing for or taking sea cucumbers from that vessel and requests in writing to the commissioner that the commissioner authorize another person to use that vessel to fish for or take sea cucumbers from the vessel; or [2005, c. 27, §1 (NEW).]

B. The vessel named on the license of a license holder is temporarily inoperable because of an accident or a mechanical failure and the license holder requests in writing to the commissioner that the commissioner authorize the license holder to use another vessel to fish for or take sea cucumbers. [2005, c. 27, §1 (NEW).]

[2005, c. 27, §1 (NEW) .]

4. Eligibility. A sea cucumber drag license may be issued only to an individual.

[2005, c. 27, §1 (NEW) .]

5. Fee. The fee for a sea cucumber drag license is \$128.

[2009, c. 213, Pt. G, §28 (AMD) .]

6. Violation. A person who commits a violation under this section commits a civil violation for which a forfeiture of not less than \$100 may be adjudged.

[2005, c. 27, §1 (NEW) .]

SECTION HISTORY

2005, c. 27, §1 (NEW). 2009, c. 213, Pt. G, §28 (AMD).

§6802. SEAWEED PERMIT

(REPEALED)

SECTION HISTORY

1983, c. 116, §3 (NEW). 1985, c. 379, §5 (AMD). 1989, c. 523, §1 (RP).

§6803. SEAWEED PERMIT

1. Permit required. Except as provided in subsections 1-A and 2, an individual may not harvest, possess, ship, transport or sell seaweed without a current:

A. Resident seaweed permit; or [2003, c. 452, Pt. F, §23 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Nonresident seaweed permit. [2003, c. 452, Pt. F, §23 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2013, c. 282, §7 (AMD) .]

1-A. Supplemental permit. An employee or immediate relation of a seaweed permit holder may harvest, possess or transport seaweed for commercial purposes with a current:

A. Resident supplemental seaweed permit; or [2003, c. 452, Pt. F, §24 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Nonresident supplemental seaweed permit. [2003, c. 452, Pt. F, §24 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §24 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Exceptions. The following are not required to have a permit:

A. [2013, c. 282, §8 (RP).]

B. [2013, c. 282, §8 (RP).]

C. An individual who harvests, possesses, ships or transports no more than 50 pounds of seaweed a day for noncommercial purposes; [2013, c. 282, §9 (AMD).]

D. Charitable or municipal organizations that harvest, possess, ship or transport seaweed for noncommercial use by that organization; or [1989, c. 523, §2 (NEW).]

E. Anyone harvesting, possessing, shipping, transporting or selling seaweed that has detached naturally and is dead. [2001, c. 421, Pt. B, §50 (AMD); 2001, c. 421, Pt. C, §1 (AFF).]

[2013, c. 282, §§8, 9 (AMD) .]

3. Fees. The fee schedule for seaweed permits is as follows:

A. Fifty-eight dollars for a resident seaweed permit; [2009, c. 213, Pt. G, §29 (AMD).]

B. Two hundred thirty dollars for a nonresident seaweed permit; [2009, c. 213, Pt. G, §29 (AMD).]

C. Twenty-nine dollars for a resident supplemental seaweed permit; and [2009, c. 213, Pt. G, §29 (AMD).]

D. Fifty-eight dollars for a nonresident supplemental seaweed permit. [2009, c. 213, Pt. G, §29 (AMD).]

[2009, c. 213, Pt. G, §29 (AMD) .]

4. Disposition of fees. Fees collected under this section accrue to the Seaweed Management Fund established in section 6806 as follows:

A. Fifty dollars for a resident seaweed permit; [2009, c. 213, Pt. G, §30 (NEW).]

B. Two hundred dollars for a nonresident seaweed permit; [2009, c. 213, Pt. G, §30 (NEW).]

C. Twenty-five dollars for a resident supplemental seaweed permit; and [2009, c. 213, Pt. G, §30 (NEW).]

D. Fifty dollars for a nonresident supplemental seaweed permit. [2009, c. 213, Pt. G, §30 (NEW).]

[2009, c. 213, Pt. G, §30 (AMD) .]

5. Violation. An individual who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2013, c. 282, §10 (AMD) .]

SECTION HISTORY

1989, c. 523, §2 (NEW). 1991, c. 528, §T13 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §T13 (AMD). RR 1999, c. 1, §17 (COR). 1999, c. 501, §§1-3 (AMD). 2001, c. 421, §B50 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 452, §§F23,24 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 213, Pt. G, §§29, 30 (AMD). 2013, c. 282, §§7-10 (AMD).

§6803-A. SEAWEED BUYER'S LICENSE

1. License required. A seaweed buyer's license is required for a person who purchases more than 10 wet tons or an equivalent number of dry tons annually directly from seaweed harvesters holding a permit under section 6803. A person may not engage in the activities authorized under this section without a current seaweed buyer's license.

[2009, c. 561, §30 (AMD) .]

2. Licensed activity. The holder of a seaweed buyer's license may buy, possess, ship, transport or sell seaweed.

[2009, c. 283, §1 (NEW) .]

3. Fees. The fee for a seaweed buyer's license is:

A. Two hundred dollars for a resident seaweed buyer's license; and [2009, c. 283, §1 (NEW) .]

B. Five hundred dollars for a nonresident seaweed buyer's license. [2009, c. 283, §1 (NEW) .]

[2009, c. 283, §1 (NEW) .]

4. Disposition of fees. Fees collected under this section accrue to the Seaweed Management Fund established in section 6806.

[2009, c. 283, §1 (NEW) .]

5. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

[2009, c. 283, §1 (NEW) .]

A holder of a license issued under this section may buy only from a harvester who possesses a seaweed permit under section 6803. The harvester shall make the seaweed permit available for inspection upon the license holder's request. [2009, c. 478, §1 (NEW) .]

SECTION HISTORY

2009, c. 283, §1 (NEW). 2009, c. 478, §1 (AMD). 2009, c. 561, §30 (AMD) .

§6803-B. SEAWEED BUYER'S SURCHARGE

A person licensed under section 6803-A shall pay an annual surcharge, which must be deposited in the Seaweed Management Fund established under section 6806. The commissioner shall establish the surcharge by rule, but the surcharge may not exceed \$5 per wet ton. The commissioner may refuse to renew a license under this Part or exclude a person from participating in harvest plans under section 6803-C, subsection 4 for failing to pay the surcharge under this section. [2009, c. 283, §2 (NEW) .]

SECTION HISTORY

2009, c. 283, §2 (NEW) .

§6803-C. COBSCOOK BAY ROCKWEED MANAGEMENT AREA

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cobscook Bay Rockweed Management Area" means the area of Cobscook Bay westward and within a line between the southernmost tip of Estes Head due east to the Canadian border and south along the border to the Franklin D. Roosevelt International Memorial Bridge. [2009, c. 283, §3 (NEW) .]

B. "Rockweed" means *Ascophyllum nodosum*. [2009, c. 283, §3 (NEW) .]

[2009, c. 283, §3 (NEW) .]

2. Designation of areas closed to harvesting. The commissioner shall identify areas within the Cobscook Bay Rockweed Management Area that are closed to the commercial harvest of rockweed, including, but not limited to, areas around public and private conservation areas, state parks and federally owned lands and lobster nursery areas. The commissioner shall identify and close to the commercial harvest of rockweed up to 30 acres within Cobscook Bay for the purpose of research.

[2009, c. 283, §3 (NEW) .]

3. Harvest management sectors. The commissioner shall divide the Cobscook Bay Rockweed Management Area into at least 14 harvest management sectors to:

A. Evenly distribute harvest effort; [2009, c. 283, §3 (NEW) .]

B. Allow easy identification of the harvest management sectors from land or on the water; and [2009, c. 283, §3 (NEW) .]

C. Facilitate enforcement. [2009, c. 283, §3 (NEW) .]

The department shall post the harvest management sectors on the department's publicly accessible website with the coordinates of closed areas.

[2009, c. 283, §3 (NEW) .]

4. Harvest plan. Except as provided in section 6803, subsection 2, paragraph C, a person harvesting rockweed for commercial purposes shall participate in an annual harvest plan approved by the department.

[2009, c. 283, §3 (NEW) .]

5. Eligibility for harvest plan. To be eligible to submit an annual harvest plan to harvest rockweed within the Cobscook Bay Rockweed Management Area, a harvester or that harvester's representative must notify the commissioner of that person's intent to harvest within the area before January 1st of the proposed year of harvest.

[2009, c. 283, §3 (NEW) .]

6. Allocation of sectors. Prior to submitting an annual harvest plan, eligible harvesters or their representatives must meet as needed to allocate harvest management sectors.

[2009, c. 283, §3 (NEW) .]

7. Annual harvest plan. An annual harvest plan must include, but is not limited to, the following:

A. The name and telephone number of the person or entity responsible for the harvest management sector; [2009, c. 283, §3 (NEW) .]

B. Identification of harvest management sectors proposed for harvest; [2009, c. 283, §3 (NEW) .]

C. Total rockweed biomass contained in the harvest management sector based on a survey conducted within the previous 3 years; [2009, c. 283, §3 (NEW) .]

D. The biomass amount proposed to be harvested; [2009, c. 283, §3 (NEW).]

E. A description of the methods of harvest; [2009, c. 283, §3 (NEW).]

F. A description of how marine organisms harvested with the rockweed will be managed; and [2009, c. 283, §3 (NEW).]

G. A description of harvester training. [2009, c. 283, §3 (NEW).]

[2009, c. 283, §3 (NEW).]

8. Annual harvest plans. Eligible harvesters or their representatives shall submit their annual harvest plans to the commissioner no later than March 1st. The annual harvest plans must be made available to the public on that date.

[2009, c. 283, §3 (NEW).]

9. Biomass harvest limit. The total biomass removed in a harvest management sector may not exceed 17% of the harvestable biomass that is eligible to be harvested annually. A harvester must report to the commissioner the total biomass removed by that harvester within a sector annually. Beginning January 1, 2010, the harvest report must be verified by an independent 3rd party.

[2009, c. 283, §3 (NEW).]

10. Bycatch. A person harvesting rockweed must make a reasonable effort to remove marine organisms harvested with the rockweed from the harvested rockweed and return those marine organisms alive back into Cobscook Bay as soon as practicable.

[2009, c. 283, §3 (NEW).]

11. Penalties. A person that violates this section commits a Class E crime for which a fine of not less than \$1,000 must be adjudged. Each day a person violates this section constitutes a separate violation.

[2009, c. 283, §3 (NEW).]

SECTION HISTORY

2009, c. 283, §3 (NEW).

§6804. COMMERCIAL NORTHERN SHRIMP LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Resident commercial northern shrimp license; [2003, c. 452, Pt. F, §25 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Resident with crew commercial northern shrimp license; or [2003, c. 452, Pt. F, §25 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. Nonresident with crew commercial northern shrimp license. [2003, c. 452, Pt. F, §25 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §25 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

2. Licensed activities. The holder of a commercial northern shrimp license may fish for or take shrimp or possess, ship, transport or sell northern shrimp that the license holder has taken. A license issued under subsection 7, paragraph B or C also authorizes unlicensed crew members aboard the vessel declared by the license holder to engage in these activities.

[2003, c. 248, §10 (AMD) .]

3. Boat declaration. The license holder shall declare the name of the vessel to be used for fishing under the commercial northern shrimp license at the time of application for the license and may not change that declaration during the license year unless the original vessel is sold and replaced, has been damaged and will be under repair for not less than one month or has been destroyed or lost.

[2003, c. 248, §10 (AMD) .]

4. Reporting.

[2003, c. 520, §11 (RP) .]

5. Exemption. Notwithstanding subsection 1, a license is not required to fish for, take, possess or transport up to one standard fish tote of northern shrimp only for personal use. This exemption does not apply to an individual whose ability to obtain a commercial northern shrimp license has been suspended by the commissioner.

[2013, c. 301, §19 (AMD) .]

6. Eligibility. A commercial northern shrimp license may be issued only to an individual.

[2003, c. 248, §10 (AMD) .]

7. Fees. Fees for the commercial northern shrimp license are as follows:

A. Thirty-eight dollars for a resident license that authorizes the license holder to engage in the licensed activities under subsection 2; [2009, c. 213, Pt. G, §31 (AMD) .]

B. One hundred three dollars for a resident license that authorizes the license holder and crew members to engage in the licensed activities under subsection 2; and [2009, c. 213, Pt. G, §31 (AMD) .]

C. Three hundred eighty-five dollars for a nonresident license that authorizes the license holder and crew members to engage in the licensed activities under subsection 2. [2009, c. 213, Pt. G, §31 (AMD) .]

[2009, c. 213, Pt. G, §31 (AMD) .]

8. Disposition of fees. Fees for commercial northern shrimp licenses must be deposited in the Shrimp Management Fund established in section 6805 as follows:

A. Thirty-three dollars for a resident license that authorizes the license holder to engage in the licensed activities under subsection 2; [2009, c. 213, Pt. G, §32 (NEW) .]

B. Eighty-nine dollars for a resident license that authorizes the license holder and crew members to engage in the licensed activities under subsection 2; and [2009, c. 213, Pt. G, §32 (NEW) .]

C. Three hundred thirty-four dollars for a nonresident license that authorizes the license holder and crew members to engage in the licensed activities under subsection 2. [2009, c. 213, Pt. G, §32 (NEW).]

[2009, c. 213, Pt. G, §32 (AMD) .]

§6804. Seaweed Management Fund

9. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(As enacted by PL 1999, c. 501, §4 is REALLOCATED TO TITLE 12, SECTION 6806)

[2003, c. 248, §10 (AMD) .]

SECTION HISTORY

RR 1999, c. 1, §18 (RAL). 1999, c. 491, §5 (NEW). 1999, c. 491, §9 (AFF). 1999, c. 501, §4 (NEW). 2001, c. 421, §§B51,52 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 170, §2 (AMD). 2003, c. 248, §10 (AMD). 2003, c. 452, §F25 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 520, §11 (AMD). 2009, c. 213, Pt. G, §§31, 32 (AMD). 2013, c. 301, §19 (AMD).

§6805. SHRIMP MANAGEMENT FUND

1. Fund established. The Shrimp Management Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund within the department.

[1999, c. 491, §5 (NEW) .]

2. Purposes of fund. The commissioner shall use the fund for research and assessment related to management of the shrimp fishery.

[1999, c. 491, §5 (NEW) .]

3. Source of revenue. In addition to the fees derived from the commercial shrimp license, the fund may receive money from any source for the purposes described in subsection 2.

§6805. Seaweed harvesting rules

(As enacted by PL 1999, c. 501, §4 is REALLOCATED TO T. 12, §6807)

[1999, c. 491, §5 (NEW) .]

SECTION HISTORY

RR 1999, c. 1, §19 (RAL). 1999, c. 491, §5 (NEW). 1999, c. 501, §4 (NEW).

§6806. SEAWEED MANAGEMENT FUND

(REALLOCATED FROM TITLE 12, SECTION 6804)

1. Fund established. The Seaweed Management Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund.

[1999, c. 1, §18 (RAL) .]

2. Permissible uses. The commissioner shall use the fund in accordance with a plan required under subsection 3 to research and manage the State's seaweed resources and to enforce the laws and rules related to seaweed.

[1999, c. 1, §18 (RAL) .]

3. Plan required. Beginning in calendar year 2000, the commissioner shall by May 1st of each year present a plan for expenditures from the fund for the next fiscal year to the joint standing committee of the Legislature having jurisdiction over marine resource matters. When developing the plan, the commissioner shall consult with harvesters and seaweed dealers.

[1999, c. 1, §18 (RAL) .]

SECTION HISTORY

RR 1999, c. 1, §18 (RAL).

§6807. SEAWEED HARVESTING RULES

(REALLOCATED FROM TITLE 12, SECTION 6805)

The commissioner may adopt rules regulating the harvest of seaweed on a species-specific basis, including, but not limited to, the total number of licenses that may be issued, the designation of a harvesting season or seasons, the quantity of the resource that may be harvested in a season, areas that may be open or closed to harvest, the designation of sectors, limitations on harvest by sector, establishment of a process for allocation to sectors and gear and techniques that may be used in harvesting. Rules establishing a process for the allocation to sectors under this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. All other rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2013, c. 558, §1 (AMD).]

SECTION HISTORY

RR 1999, c. 1, §19 (RAL). 2013, c. 169, §1 (AMD). 2013, c. 558, §1 (AMD).

§6808. COMMERCIAL GREEN CRAB ONLY LICENSE

1. License required. It is unlawful for a person to engage in the activities authorized by this license under this section without a current commercial green crab only license.

[2001, c. 186, §1 (NEW) .]

2. Licensed activities. The holder of a commercial green crab only license may fish for or take green crabs or possess, ship, transport or sell green crabs that the license holder has taken.

[2001, c. 186, §1 (NEW) .]

3. Reporting; rules.

[2003, c. 170, §3 (RP) .]

4. Exemptions. Notwithstanding subsection 1, a license is not required to fish for, take, possess or transport green crabs for personal use if the green crabs are taken by a method exempted under section 6501, subsection 3, paragraph A. A municipality or the holder of an aquaculture lease or license that harvests green crabs under authorization from the department is not required to have a commercial green crab only license as long as the harvesting of green crabs occurs under supervision of the municipality or the holder of an aquaculture lease or license. Notwithstanding subsection 1, any individual licensed to fish for lobster and

crab pursuant to section 6421, subsection 1, paragraph A, B, C or E may also fish for or take green crabs and possess, ship, transport or sell green crabs that the license holder has taken. In accordance with section 6853, the holder of a marine worm dealer's license is not required to have a commercial green crab only license to buy, possess, ship, transport or sell green crabs for a purpose other than for human consumption. In accordance with section 6851, the holder of a wholesale seafood dealer's license is not required to have a commercial green crab only license to buy, possess, ship, transport or sell green crabs.

[2013, c. 492, §9 (AMD) .]

5. Eligibility. A commercial green crab only license may be issued only to an individual.

[2001, c. 186, §1 (NEW) .]

6. Fees. The fee for a commercial green crab only license is \$10 for a resident license and \$20 for a nonresident license, which authorizes the license holder to engage in the licensed activities under subsection 2.

[2013, c. 492, §10 (AMD) .]

7. Disposition of fees. Fees for commercial green crab only licenses must be deposited in the Green Crab Management Fund established in section 6809 as follows:

A. Eight dollars for a resident commercial green crab only license; and [2013, c. 492, §11 (AMD) .]

B. Sixteen dollars for a nonresident commercial green crab only license. [2013, c. 492, §11 (AMD) .]

[2013, c. 492, §11 (AMD) .]

8. Prohibition. The holder of a commercial green crab only license may not have aboard a boat used for crab fishing any lobster or lobster parts.

[2001, c. 186, §1 (NEW) .]

SECTION HISTORY

2001, c. 186, §1 (NEW). 2003, c. 170, §3 (AMD). 2009, c. 213, Pt. G, §§33, 34 (AMD). 2009, c. 229, §19 (AMD). 2013, c. 492, §§9-11 (AMD).

§6809. GREEN CRAB MANAGEMENT FUND

1. Fund established. The Green Crab Management Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund within the department.

[2001, c. 186, §1 (NEW) .]

2. Purposes of fund. The commissioner shall use the fund for research and management programs for the green crab fishery.

[2001, c. 186, §1 (NEW) .]

3. Source of revenue. In addition to the fees derived from the commercial green crab license, the fund may receive money from any source for the purposes described in subsection 2.

[2001, c. 186, §1 (NEW) .]

SECTION HISTORY

2001, c. 186, §1 (NEW).

§6810. METHOD OF FISHING

1. Authorized traps. It is unlawful to fish for green crabs under a license issued pursuant to section 6808 with traps not authorized by the commissioner.

[2013, c. 588, Pt. A, §9 (AMD) .]

2. Trap design; rules. The commissioner shall establish authorized green crab trap designs by rule. Rules adopted by the commissioner pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[2001, c. 186, §1 (NEW) .]

SECTION HISTORY

2001, c. 186, §1 (NEW). 2013, c. 588, Pt. A, §9 (AMD).

§6810-A. MARINE HARVESTING DEMONSTRATION LICENSE

1. License required. Notwithstanding section 6074, an individual may not engage in an activity authorized under this section without a valid marine harvesting demonstration license.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

2. Licensed activities. An individual who holds a marine harvesting demonstration license may engage in limited fishing activities for the purpose of providing an educational demonstration of marine harvesting techniques or of the marine ecology of the Gulf of Maine as part of a commercial operation. An individual may not handle a lobster trap, warp or buoy used for the purposes of this section unless that individual meets the requirements of subsection 7.

Subject to the requirements of subsection 3, an individual who holds a Class I, Class II or Class III lobster and crab fishing license may assist a person who holds a marine harvesting demonstration license on that person's boat in the demonstration of lobster and crab fishing without obtaining a marine harvesting demonstration license.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

3. License limitations. An individual who holds a marine harvesting demonstration license may not sell, retain, ship or transport any portion of the catch and shall release all organisms alive into the area from which the organisms were harvested. A vessel identified under subsection 6 may not be used for the commercial harvest of marine organisms unless otherwise provided by the department.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

4. Gear limitations and requirements. The commissioner shall specify the type and amount of gear that may be used under a marine harvesting demonstration license.

A. The number of lobster traps fished from a vessel may not exceed 20 traps, regardless of the number of marine harvesting demonstration license holders fishing from that vessel. [2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF).]

B. The commissioner shall establish a lobster trap tag system under which a marine harvesting demonstration license holder must purchase a tag for the purpose of identifying and tracking traps. The commissioner may impose a per-tag fee to cover the cost of the trap tags and the costs of administering and enforcing the lobster trap tag system. Trap tag fees must be deposited in the Lobster Management Fund established under section 6431-C. [2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF).]

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

5. Boat declaration. The marine harvesting demonstration license holder shall declare the name of the vessel to be used for fishing under the license at the time of application for the license and may not change that vessel during the license year unless otherwise authorized by the department.

An individual who holds a marine harvesting demonstration license may assist another person who holds a marine harvesting demonstration license on that person's vessel without declaring the name of that vessel. The individual who assists another license holder must have written permission from that license holder before handling that person's demonstration lobster traps, warps or buoys.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

6. Demonstration vessel identification. A vessel may not be used for the purposes of this section unless that vessel is clearly identified as provided by the commissioner under this subsection. The commissioner shall establish the type and specifications of vessel identification to be used for purposes of this section. The commissioner may impose an administrative fee to cover costs associated with implementing this subsection.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

7. Additional requirements for lobster and crab harvesting demonstrations. A person may not demonstrate lobster or crab harvesting methods under this section unless that person holds a marine harvesting demonstration license and:

A. Has successfully completed a lobster and crab fishing written examination as provided in section 6423; or [2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF).]

B. Held a Class I, Class II or Class III lobster and crab fishing license and has landed lobster under that license. [2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF).]

An individual who successfully completes the examination under paragraph A is not required to repeat that examination to renew a marine harvesting demonstration license.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

8. Fee. The fee for a marine harvesting demonstration license is \$26.

[2009, c. 213, Pt. G, §35 (AMD) .]

9. Rules. The commissioner may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

10. Application of laws. Except as provided in this section, licenses issued under this section are subject to applicable laws under this Part.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

11. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$1,000 may be adjudged.

[2003, c. 169, §1 (NEW); 2003, c. 169, §3 (AFF) .]

SECTION HISTORY

2003, c. 169, §1 (NEW). 2003, c. 169, §3 (AFF). 2009, c. 213, Pt. G, §35 (AMD).

Article 2: LIMITS ON FISHING HEADING: PL 1999, C. 672, §1 (NEW)

§6811. SEA CUCUMBER HARVESTING SEASON

Unless modified by rules adopted under section 6171-A, it is unlawful for a person to fish for or take sea cucumbers from July 1st to September 30th, both days inclusive. [1999, c. 672, §1 (NEW) .]

SECTION HISTORY

1999, c. 672, §1 (NEW) .

§6812. SEA CUCUMBER DRAG

1. Drag width. It is unlawful to utilize a drag to fish for or take sea cucumbers that exceeds 5 feet, 6 inches in width, measured from extreme outside edge to extreme outside edge.

[1999, c. 672, §1 (NEW) .]

2. Configuration of drag. The commissioner shall adopt rules that describe the type of drag that may be used to fish for or take sea cucumbers, including, but not limited to, limitations on the type or size of drag components. Such rules are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

[1999, c. 672, §1 (NEW) .]

SECTION HISTORY

1999, c. 672, §1 (NEW) .

§6813. SEA CUCUMBER MANAGEMENT FUND

1. Fund established. The Sea Cucumber Management Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund within the department. The commissioner may receive on behalf of the fund money from any source for the purposes described in subsection 2. All money received into the fund must be used for the purposes of the fund. Unexpended balances in the fund at the end of the fiscal year may not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fund. Any interest earned on the money in the fund must be credited to the fund.

[1999, c. 672, §1 (NEW) .]

2. Purposes of fund. The commissioner shall use the fund to research and manage the State's sea cucumber fishery and to enforce the laws related to sea cucumbers.

[1999, c. 672, §1 (NEW) .]

3. Fees. The following fees must be assessed and credited to the fund. Every wholesale seafood license holder that purchases sea cucumbers shall keep, as a part of permanent records, a record of all sea cucumbers purchased at point of first sale. Every wholesale seafood license holder that purchases sea cucumbers shall, on or before the last day of each month, pay to the commissioner a fee of up to 20¢ for every 100 pounds reported as purchased. The commissioner shall establish by rule the amount of the fee and any procedural requirements for collection of the fee, including, but not limited to, reporting forms and monthly reporting of purchase amounts. Timely payment of the fee is a condition of renewal of the wholesale seafood license issued under section 6851. If it appears to the commissioner from an inspection of records or otherwise that an additional fee is due or overpayment has been made, additional assessments or refunds must be made by the commissioner to the wholesale seafood license holder.

[2005, c. 27, §2 (NEW) .]

SECTION HISTORY

1999, c. 672, §1 (NEW). 2005, c. 27, §2 (AMD).

§6814. SEA CUCUMBER RULES

The commissioner may adopt rules under chapter 607, subchapter 1 to promote the conservation and propagation of sea cucumbers. Those rules may include, but are not limited to, the establishment of management areas in which the harvest of sea cucumbers will be permitted, limits on the number of licenses associated with those management areas and annual limits on total harvest from each of those management areas. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2005, c. 27, §3 (NEW) .]

SECTION HISTORY

2005, c. 27, §3 (NEW).

Article 3: LIMITATIONS ON SEA CUCUMBER DRAG LICENSES HEADING: PL 2005, C. 27, §4 (NEW)

§6821. LIMITED ENTRY

1. License eligibility. The commissioner may not issue a sea cucumber drag license under section 6801-A to any person unless that person possessed that license in the previous calendar year or becomes eligible to obtain that license pursuant to a limited entry system under subsection 2.

[2005, c. 27, §4 (NEW) .]

2. Sea cucumber drag license limited entry system. The commissioner may establish by rule a limited entry system under which a person who did not hold a sea cucumber drag license under section 6801-A in the previous calendar year may become eligible to obtain that license. The rules for a limited entry system must include provisions for the method and administration of the system. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 27, §4 (NEW) .]

3. Exceptions. Notwithstanding subsection 1, the following persons may be issued a sea cucumber drag license for license year 2006:

- A. A person who was certified as eligible for and obtained a sea cucumber endorsement in 2000; and
- [2005, c. 27, §4 (NEW) .]

B. A person who reported landings of at least 100,000 pounds of sea cucumbers during license year 2002, 2003 or 2004. [2005, c. 27, §4 (NEW) .]

[2005, c. 27, §4 (NEW) .]

4. Protection from depletion. The commissioner may adopt rules for the sea cucumber drag license limited entry system to prohibit new entry in a year when it is necessary to protect or conserve the sea cucumber resource from imminent depletion.

[2005, c. 27, §4 (NEW) .]

SECTION HISTORY

2005, c. 27, §4 (NEW) .

§6822. LICENSES BY AREA

If management areas are established pursuant to section 6814, then a person eligible to purchase a license under section 6821 may purchase that license for only one of the management areas. A person may not change from the management area in which the person harvested sea cucumbers in the previous calendar year unless the change is authorized in accordance with section 6823. A sea cucumber drag license authorizes the licensed activity only in the management area for which it is issued. [2005, c. 27, §4 (NEW) .]

SECTION HISTORY

2005, c. 27, §4 (NEW) .

§6823. CHANGING SEA CUCUMBER MANAGEMENT AREAS

This section applies if management areas are established pursuant to section 6814. [2005, c. 27, §4 (NEW) .]

1. Authorization of changes. Beginning in calendar year 2007, a person eligible to purchase a sea cucumber drag license under section 6821 who wishes to change the management area in which the person harvests sea cucumbers may not change management areas unless the change is authorized by the commissioner in accordance with this section.

[2005, c. 27, §4 (NEW) .]

2. Management area change request on application. A person eligible to purchase a sea cucumber drag license under section 6821 who wishes to change the management area in which that person was licensed to harvest sea cucumbers in the previous calendar year must indicate on a sea cucumber drag license application form a preference to change the management area in which the person harvests sea cucumbers. The commissioner shall stamp each sea cucumber drag license application form with the time and date of submission.

[2005, c. 27, §4 (NEW) .]

3. Conditions for authorization. A request to change management areas is authorized based on the commissioner's assessment of the ability of the management area to sustain additional fishing effort. The commissioner shall authorize management area change requests in chronological order of requests received under this section.

[2005, c. 27, §4 (NEW) .]

4. Limitation on approving management area change. The commissioner may not authorize a management area change during the period from October 1st to June 30th.

[2005, c. 27, §4 (NEW) .]

5. Effective date of management area change. The effective date of a management area change authorized by the commissioner is October 1st.

[2005, c. 27, §4 (NEW) .]

SECTION HISTORY

2005, c. 27, §4 (NEW) .

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